MONTANA
ADMINISTRATIVE
REGISTER

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TABLE OF CONTENTS

PROPOSAL NOTICES

- Administration, Department of, Title 2
  - 2025-900.1 Notice of Proposed Rulemaking – Banking Rules.
- Commerce, Department of, Title 8
  - 2025-234.1 Notice of Proposed Rulemaking – Opportunities in Rural Economies Program.
  - 2025-259.1 Notice of Proposed Rulemaking – Community Planning Grant Application Guidelines of the Community Development Block Grant Program.
- Labor and Industry, Department of, Title 24
  - 2025-123.1 (Board of Professional Engineers and Professional Land Surveyors) Notice of Proposed Rulemaking – Rule Changes From Board Actions and Senate Bill 227 (2025) – Red Tape Relief Initiative.
  - 2025-138.1 (Board of Speech-Language Pathologists and Audiologists) Notice of Proposed Rulemaking – Implementation of House Bill 384 – Revision of Dates to Apply for Speech-Language Pathology or Audiology Assistant Licensure.
  - 2025-177.1 Notice of Proposed Rulemaking – Implementing the LEGAL Act.
  - 2025-240.1 Notice of Proposed Rulemaking – Work-Based Learning Grants.

- Environmental Quality, Department of, Title 17

    - 2025-195.1 (Petroleum Tank Release Compensation Board) Notice of Proposed Rulemaking – Implementation of Senate Bill 315 (2025) – Red Tape Relief Initiative.

- Public Health and Human Services, Department of, Title 37

    - 2025-524.1 Notice of Proposed Rulemaking – Community Supports and Supported Living Services.

    - 2025-526.1 Notice of Proposed Rulemaking – Big Sky Rx Program.

ADOPTION NOTICES

- Public Health and Human Services, Department of, Title 37

    - 2025-280.2 Notice of Adoption – Community First Choice Provider Enrollment.

OTHER

- Fish, Wildlife and Parks, Department of, Title 12

    - 2025-262.1 Notice of Adoption of Emergency Rule – Partial Closure of Makoshika State Park in Dawson County.

- Governor, Office of the

    - Executive Branch Vacancies and Appointments

MONTANA
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DEPARTMENT OF ADMINISTRATION

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-900.1

Summary

The department proposes to adopt, amend, amend and transfer, and repeal banking rules.

No Hearing Scheduled

If the agency receives requests for a public hearing on the proposed rulemaking from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed rulemaking; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register.

The estimated number of persons directly affected by the proposed rulemaking is three based on 33 state-chartered banks in Montana.

Comments

Comments may be submitted using the contact information below. Comments must be received by Friday, August 22, 2025, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Wednesday, August 6, 2025, at 5:00 p.m.

Contact

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General Reasonable Necessity Statement

The 2023 Montana Legislature abolished the State Banking Board in Chapter 23, Laws of 2023 (House Bill 138) which was signed by the Governor on February 28, 2023, effective October 1, 2023.

The State Banking Board's administrative rules are located in Title 2, chapter 60 and include rules pertaining to new bank charters, closed banks, and shell banks. Since the substance of these rules is still necessary, the department proposes to transfer the applicable rules to Title 2, chapter 59 and amend the rules to remove the State Banking Board from the chartering process.

Additionally, as part of its required biennial rule review, the department has identified several necessary amendments to the rules. Some of the proposed amendments include:

- amending punctuation as needed;
- replacing the word "shall" with "must" to be consistent with other rules in ARM Title 2, chapter 59;
- removing outdated or superfluous verbiage and/or simplifying text without altering the substance of the rule to provide plain language, making it more accessible and easier to understand;
- updating outdated two-word terms to the commonly accepted one-word form, such as web site to website;
- updating the department's website address;
- removing the division's physical address from rule and forms as their office has relocated earlier this year and may relocate again in the near future;
- updating authority and implementation citations to accurately reflect all statutes implemented through the rules and to provide the complete sources of the department's rulemaking authority;
- changing references to the Division of Banking and Financial Institutions of the Department of Administration from "division" to "department" and from "commissioner" to "department" for consistency with other rules in ARM Title 2, chapter 59; and
- updating website references to remove "www" and "http" as these prefixes are not necessary to successfully navigate to the department's website.

Where additional specific basis for a proposed action exist, the department will identify those reasons immediately following that rule.

NEW RULES 2 AND 10

The department is defining a depository bank and nondepository trust company bank in Montana. Both are banks in Montana pursuant to 32-1-102, MCA. However, depository banks have FDIC insurance to protect depositors and liquidate the institution, while nondepository trust company banks do not. Therefore, the capital adequacy standards of the two types of banks are different. In order to adopt different capital standards for these types of banks, the department must first define them.

These definitions are based on Montana statutes that define different types of banks. The hallmark of a nondepository trust company bank is that it cannot accept money on deposit or make loans. Depository banks can.

REPEALED RULES

The 2023 Montana Legislature amended 32-1-563, MCA, in House Bill 138 to allow officers of a bank to close a branch in the event of an emergency as defined in 32-1-561, MCA. House Bill 138 was signed by the Governor on February 28, 2023, and the section pertaining to the proposed repeal of these rules was effective on passage and approval.

The department proposes to repeal ARM 2.59.908 and 2.59.909 to allow banks to notify the department of a branch closure and subsequent reopening by providing the information requested in 32-1-564, MCA, by a method of their choice.

With the abolishment of the State Banking Board, several administrative rules that were specific to the board are now unnecessary. These rules include ARM 2.60.101, 2.60.201, 2.60.202, 2.60.204, 2.60.302, 2.60.903, and 2.60.907.

Rulemaking Actions

AMEND

The rules proposed to be amended are as follows, stricken matter interlined, new matter underlined:

2.59.106 INVESTMENT IN CORPORATE STOCK

(1) Ownership of stock in a bank service corporation is subject to the following conditions:

(a) The department adopts the definition of bank service corporation ~~defined by~~ in 12 USC 1861 ~~as "~~ (a corporation organized to perform services authorized

by this Act, all of the capital stock of which is owned by one or more insured banks).

(b) Services which may be provided by a bank service corporation include, but are not limited to:

(i) electronic data processing;

(ii) accounting services;

(iii) clearinghouse functions;

(iv) investment services for the account(s) of bank(s) ;

(v) advertising and marketing services;

(vi) communications services;

(vii) audit services;

(viii) loan review and collateral inspections;

(ix) retention of bank records, including data backup retention;

(x) safekeeping services, including vault and safe deposit box facilities;

(xi) courier services.

(2) As provided by 32-1-422(3), MCA, a bank may invest in the stock of certain corporations. ~~The i~~Investment in the stock of an~~y~~ approved corporation ~~shall be~~ is limited to:

(a) the greater of 5% of a bank's unimpaired capital and surplus;

(b) the minimum number of shares necessary to participate in government sponsored enterprises; or

(c) the minimum dollar value of such shares necessary for the bank to participate in the services or programs. This limitation ~~shall be~~ is exclusive of all accrued or declared stock dividends generated by such corporate stock.

(3) In addition to the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Federal Agricultural Mortgage Corporation, the department has determined that it is in the public interest for banks to be able to invest in the following corporations, subject to the restrictions listed above:

(a) federal home loan banks.

Authorizing statute(s): 32-1-218, 32-1-422, MCA

Implementing statute(s): 32-1-422, MCA

Reasonable Necessity Statement

Section (2) only applies to 32-1-422(3), MCA, and not the entire statute.

2.59.111 RETENTION OF BANK RECORDS

(1) Records of customer accounts, as defined in (7), must be held in accordance with 32-1-491, MCA.

(2) The publication "Bank Record Retention Periods - Appendix A to ARM 2.59.111" (Appendix A) establishes the minimum period for retention of bank records other than those specified in 32-1-491, MCA. ~~Appendix A is maintained by the Commissioner of Banking and Financial Institutions, and may be updated not more than once a year by the commissioner.~~ The June 2, 2014, edition of Appendix A is incorporated by reference as part of this rule. A copy of Appendix A can be obtained from the Division of Banking and Financial Institutions, Department of Administration, ~~301 South Park,~~ P.O. Box 200546, Helena, MT 59620-0546 or found on the department's ~~web site~~ website at ~~https://banking.mt.gov/_docs/BanksTC/Bank_Records_Retention_Sched_A_6-2-2014.pdf~~ banking.mt.gov.

(3) When a bank reproduces records in any manner in the regular course of business as permitted by 32-1-492 through 32-1-494, MCA, the retention period of the reproduced records is the same as specified in Appendix A.

(4) Banks ~~shall~~ must comply with all applicable federal banking laws and regulations requiring specific retention periods for ~~the~~ records ~~enumerated~~ set forth in those laws or regulations. If a~~n applicable~~ federal banking law or regulation concerning record retention conflicts with a retention period contained in 32-1-491, MCA, this rule, or Appendix A, a bank ~~shall~~ must comply with whichever retention period is longer. Banks ~~shall~~ must comply with ~~other applicable~~ state laws governing retention of personnel records, corporation records, etc.

(5) If a bank does not maintain records set forth in Appendix A, but maintains similar records with ~~equivalent~~ the same information, the bank's similar records must be retained for the time set forth ~~for records~~ in Appendix A.

(6) Records not covered by this rule or 32-1-491, MCA, must be retained for an appropriate period of time as determined ~~appropriate~~ by the bank's board of directors. Retention periods determined ~~appropriate~~ by the board must be ~~maintained~~ kept as a permanent part of the board's minutes.

(7) "Customer accounts," for record retention purposes under 32-1-491, MCA, and this rule, means customer deposit accounts including savings deposit accounts, checking accounts, demand deposit accounts, certificates of deposit, safety deposit boxes,

trust accounts, Negotiable Order of Withdrawal (NOW) accounts, and money market deposit accounts.

Authorizing statute(s): 32-1-218, 32-1-491, MCA

Implementing statute(s): 32-1-218, 32-1-491, 32-1-492, MCA

Reasonable Necessity Statement

Appendix A is maintained by the department, which oversees all rules related to ARM Title 2, chapter 59. It is not necessary to specifically state that in rule. Furthermore, since Appendix A has not been updated since 2014, there is minimal risk of the department making updates more than once a year.

2.59.113 INVESTMENTS BY BANKS TO PROMOTE THE PUBLIC WELFARE

(1) The department incorporates by reference the Office of the Comptroller of the Currency Code of Federal Regulations (12 CFR Part 24.1 through 24.7, 1996 edition) that implement 12 USC 24, which authorizes national banks to make investments designed primarily to promote the public welfare, including the welfare of low and moderate income areas or individuals, such as providing housing, services, or jobs.

~~(2) A copy of 12 CFR Part 24.1 through 24.7 may be obtained from the Division of Banking and Financial Institutions of the Department of Administration, 301 South Park, Suite 316, P.O. Box 200546, Helena, MT 59620-0546.~~

Authorizing statute(s): 32-1-218, 32-1-422, MCA

Implementing statute(s): 32-1-422, MCA

Reasonable Necessity Statement

The department proposes to amend this rule to remove (2) as this information is readily available on the internet.

2.59.115 ADOPTION OF EXAMINATION PROCEDURE

(1) The department adopts the revised Uniform Financial Institution Rating System as one of its examination procedures. The edition adopted is the December 19, 1996, edition as published in the Federal Register at 61 Fed. Reg. 67021. It may be viewed at ~~http://www.~~fdic.gov/news/news/financial/1996/fil96105.pdf. A copy may be obtained from the Federal Financial Institutions Examination Council (FFIEC) at 3501 Fairfax Drive, Room D-8073a, Arlington, VA 22226-3550.

Authorizing statute(s): 32-1-218, MCA

Implementing statute(s): 32-1-211, MCA

2.59.116 DEFINITIONS

The following definitions apply to ARM 2.59.117 through 2.59.124:

(1) "Actuarial method" means the method of allocating payments made on a debt between the amount financed and the finance charge. Under this method, a payment is applied first to the accumulated finance charge and any remainder is subtracted from, or any deficiency is added to, the unpaid balance of the amount financed.

(2) "Contract" means a debt cancellation contract or a debt suspension agreement.

(3) "Customer" means an individual who obtains from a bank an extension of credit that is primarily for personal, family, or household purposes. For purposes of this subchapter, the term means the same thing as "borrower."

(4) "Debt cancellation contract" means a loan term or contractual arrangement modifying loan terms under which a bank agrees, for a fee, to suspend all or part of a customer's obligation to repay an extension of credit from that bank upon the occurrence of a specified event. The agreement must specify the extension of credit to which it pertains. The extension of credit ~~to which it pertains~~ may be a direct loan made by the bank or an indirect loan in the form of a retail installment sales contract purchased by or assigned to the bank. In the case of ~~an indirect loan in the form of~~ a retail installment sales contract, the debt cancellation contract may be offered by the bank through a nonexclusive, unaffiliated agent contingent upon the bank purchasing or taking assignment of the indirect loan. The agreement may be separate from or a part of other loan documents. A debt cancellation contract may be offered and purchased ~~either contemporaneously with the other terms of the loan agreement~~ at the time the loan is made or subsequently.

(5) "Debt suspension agreement" means a loan term or contractual arrangement modifying loan terms under which a bank agrees, for a fee, to suspend all or part of

a customer's obligation to repay an extension of credit from that bank upon the occurrence of a specified event. The agreement must specify the extension of credit to which it pertains. The extension of credit may be a direct loan made by the bank or an indirect loan in the form of a retail installment sales contract purchased by or assigned to the bank. In the case of ~~an indirect loan in the form of~~ a retail installment sales contract, the debt suspension agreement may be offered by the bank through a nonexclusive, unaffiliated agent contingent upon the bank purchasing or taking assignment of the indirect loan. The agreement may be separate from or a part of other loan documents. The term "debt suspension agreement" does not include loan payment deferral arrangements in which the triggering event is the borrower's unilateral election to defer repayment or the bank's unilateral decision to allow a deferral of repayment.

(6) "Guaranteed asset protection (GAP) waiver or agreement" means a ~~term of an extension of credit or~~ contractual arrangement modifying the terms of an extension of credit for the purchase of titled personal property under which a bank agrees to cancel the customer's obligation to repay the portion of the extension of credit that exceeds the amount paid by the primary insurer of the titled personal property upon the insurer's declaration that the titled personal property is a total loss or determination that the titled personal property is stolen and not recoverable.

(7) "Loan" or "extension of credit" means a direct or indirect advance of funds to a customer made on the basis of an~~y~~ obligation of that customer to repay the funds or that is repayable from specific property pledged by or on the customer's behalf. The term also includes any liability of a bank to advance funds to or on behalf of a customer pursuant to a contractual commitment.

(8) "Residential mortgage loan" means a loan for personal, family, or household purposes secured by a one- to four-family residential property.

Authorizing statute(s): 32-1-218, 32-1-429, MCA

Implementing statute(s): 32-1-429, MCA

Reasonable Necessity Statement

The department proposes to amend this rule to clarify that the definitions are applicable to debt cancellation and debt suspension rules and provide the rule numbers in a lead-in sentence prior to the definitions.

2.59.125 DEFINITIONS APPLICABLE TO DERIVATIVE TRANSACTIONS AND SECURITIES FINANCING TRANSACTIONS

The following definitions apply to rules within this subchapter:

(1) "Bank" or "state bank" has the same meaning as "eligible state bank" in (10).

(2) "Borrower" means:

(a) a person who is named as a borrower or debtor in a loan or extension of credit;

(b) a person to whom a bank has credit exposure arising from a derivative transaction or securities financing transaction entered by the bank; or

(c) any other person, including a drawer, endorser, or guarantor, who is deemed to be a borrower under the direct benefit or common enterprise tests in 12 CFR 32.5 and ARM ~~2.59.108~~ 2.59.138 through 2.59.143.

(3) "Contractual commitment to advance funds" means:

(a) a bank's obligation to:

(i) make payment directly or indirectly to a third person contingent upon default by a customer of the bank in performing an obligation and to make such payment in keeping with the agreed-upon terms of the customer's contract with the third person, or to make payments upon some other stated condition;

(ii) guarantee or act as surety for the benefit of a person;

(iii) advance funds under a qualifying commitment to lend, as defined in 12 CFR 32.2(t); or

(iv) advance funds under a standby letter of credit, as defined in 12 CFR 32.2(ee) and 12 CFR 208.24, a put, or other similar arrangement.

(b) The term does not include commercial letters of credit and similar instruments:

(i) under which the issuing bank expects the beneficiary to draw on the issuer;

(ii) that do not guarantee payment; and

(iii) that do not provide payment if a third party defaults.

(4) "Credit derivative" means a financial contract executed under standard industry credit derivative documentation that allows one party (the protection purchaser) to transfer the credit risk of one or more exposures to another party (the protection provider).

(5) "Derivative transaction" includes any transaction that is a contract, agreement, swap, warrant, note, or option that is based, in whole or in part, on the value of,

any interest in, or any quantitative measure or the occurrence of any event relating to one or more commodities, securities, currencies, interest, or other rates, indices, or other assets. The term includes a securities financing transaction.

(6) "Effective margining arrangement" means a master legal agreement governing derivative transactions between a bank and a counterparty that requires the counterparty to post, on a daily basis, variation margin to fully collateralize that amount of the bank's net credit exposure to the counterparty that exceeds $25 million created by the derivative transactions covered by the agreement.

(7) "Eligible credit derivative" means a single-name credit derivative or a standard, non-tranched index credit derivative provided that:

(a) the derivative contract meets the requirements of an eligible guarantee as defined in (8) and has been confirmed by the protection purchaser and the protection provider;

(b) any assignment of the derivative contract has been confirmed by all relevant parties;

(c) if the credit derivative is a credit default swap, the derivative contract includes the following credit events:

(i) failure to pay any amount due under the terms of the reference exposure, subject to any applicable minimal payment threshold that is consistent with standard market practice and with a grace period that is closely in line with the grace period of the reference exposure; and

(ii) bankruptcy, insolvency, or inability of the obligor on the reference exposure to pay its debts, or its failure or admission in writing of its inability generally to pay its debts as they become due, and similar events;

(d) the terms and conditions dictating the manner in which the derivative contract is to be settled are incorporated into the contract;

(e) if the derivative contract allows for cash settlement, the contract incorporates a robust valuation process to reliably estimate loss with respect to the derivative and specifies a reasonable period for obtaining post-credit event valuations of the reference exposure;

(f) if the derivative contract requires the protection purchaser to transfer an exposure to the protection provider at settlement, the terms of at least one of the exposures that is permitted to be transferred under the contract provide that any required consent to transfer may not be unreasonably withheld; and

(g) if the credit derivative is a credit default swap, the derivative contract:

(i) identifies the parties responsible for determining whether a credit event has occurred;

(ii) specifies that the determination is not the sole responsibility of the protection provider; and

(iii) gives the protection purchaser the right to notify the protection provider of the occurrence of a credit event.

(8) "Eligible guarantee" means a guarantee that:

(a) is written and unconditional;

(b) covers all or a pro rata portion of all contractual payments of the obligor on the reference exposure;

(c) gives the beneficiary a direct claim against the protection provider;

(d) is not unilaterally cancelable by the protection provider for reasons other than the beneficiary's breach of contract;

(e) is legally enforceable against the protection provider in a jurisdiction where the protection provider has sufficient assets against which a judgment may be attached and enforced;

(f) requires the protection provider to make payment to the beneficiary on the occurrence of a default (as defined in the guarantee) of the obligor on the reference exposure in a timely manner without the beneficiary first having to take legal action to pursue the obligor for payment;

(g) does not increase the beneficiary's cost of credit protection on the guarantee in response to deterioration in the credit quality of the reference exposure; and

(h) is not provided by an affiliate of the bank, unless the affiliate is an insured depository institution, bank, securities broker or dealer, or insurance company that:

(i) does not control the bank; and

(ii) is subject to consolidated supervision and regulation comparable to that imposed on U.S. depository institutions, securities broker-dealers, or insurance companies as applicable.

(9) "Eligible protection provider" means:

(a) a sovereign entity (a central government, including the U.S. government, an agency, department, ministry, or central bank);

(b) the Bank for International Settlements, the International Monetary Fund, the European Central Bank, the European Commission, or a multilateral development bank;

(c) a federal home loan bank;

(d) the Federal Agricultural Mortgage Corporation;

(e) a depository institution, as defined in section 3 of the Federal Deposit Insurance Act, 12 USC 1813(c);

(f) a bank holding company, as defined in section 2 of the Bank Holding Company Act, as amended, 12 USC 1841;

(g) a savings and loan holding company, as defined in section 10 of the Home Owners' Loan Act, 12 USC 1467a;

(h) a securities broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934, 15 USC 78o, et seq.;

(i) an insurance company that is subject to the supervision of a state insurance regulator;

(j) a foreign banking organization;

(k) a non-U.S.-based securities firm or a non-U.S.-based insurance company that is subject to consolidated supervision and regulation comparable to that imposed on U.S. depository institutions, securities broker-dealers, or insurance companies; and

(l) a qualifying central counterparty.

(10) "Eligible state bank" means a bank organized under Montana laws that:

(a) is well-capitalized as defined in the prompt corrective action rules applicable to the bank; and

(b) has a composite rating of 1 or 2 under the Uniform Financial Institutions Rating System in connection with the bank's most recent examination or subsequent review.

(11) "Loans," "extensions of credit," or "obligations" have the meaning in 32-1-432, MCA, and any credit exposure determined under ARM 2.59.129 arising from a derivative transaction or a securities financing transaction.

(a) The terms include:

(i) a contractual commitment to advance funds;

(ii) a maker or endorser's obligation arising from a bank's discount of commercial paper;

(iii) a bank's purchase of third-party paper subject to an agreement that the seller will repurchase the paper upon default or at the end of a stated period. The amount of the bank's loan is the total unpaid balance of the paper owned by the bank less any applicable dealer reserves retained by the bank and held by the bank as collateral security. Where the seller's obligation to repurchase is limited, the bank's loan is measured by the total amount of the paper the seller may ultimately be obligated to repurchase. A bank's purchase of third-party paper without direct or indirect recourse to the seller is not a loan or extension of credit to the seller;

(iv) an overdraft, whether or not prearranged, but not an intraday overdraft for which payment is received before the close of business of the bank that makes the funds available;

(v) the sale of federal funds with a maturity of more than one business day, but not federal funds with a maturity of one day or less or federal funds sold under a continuing contract;

(vi) loans or extensions of credit that have been charged off on the books of the bank in whole or in part unless the loan or extension of credit is:

(A) unenforceable by reason of discharge in bankruptcy;

(B) no longer legally enforceable because of expiration of the statute of limitations or a judicial decision; or

(C) no longer legally enforceable for other reasons provided that the bank maintains sufficient records to demonstrate that the loan is unenforceable; and

(vii) a bank's purchase of securities subject to an agreement that the seller will repurchase the securities at the end of a stated period, but does not include a bank's purchase of Type I securities, as defined in (15), subject to a repurchase agreement, where the purchasing bank has assured control over or has established its rights to the Type I securities as collateral.

(b) The terms do not include:

(i) additional funds advanced for a borrower's benefit by a bank for payment of taxes, insurance, utilities, security, and maintenance and operating expenses necessary to preserve the value of real property securing the loan, consistent with safe and sound banking practices, but only if the advance is for the protection of the bank's interest in the collateral, and provided that such amounts must be treated as an extension of credit if a new loan or extension of credit is made to the borrower;

(ii) accrued and discounted interest on an existing loan or extension of credit, including interest that has been capitalized from prior notes and interest that has been advanced under terms and conditions of a loan agreement;

(iii) financed sales of a bank's own assets, including other real estate owned, if the financing does not put the bank in a worse position than when the bank held title to the assets;

(iv) a renewal or restructuring of a loan as a new "loan or extension of credit," following the exercise by a bank of reasonable efforts, consistent with safe and sound banking practices, to bring the loan into conformance with the lending limit, unless new funds are advanced by the bank to the borrower (except in circumstances permitted under 12 CFR 32.3(b)(5)), a new borrower replaces the original borrower, or unless the department singly or in collaboration with the appropriate federal banking agency determines that a renewal or restructuring was undertaken as a means to evade the bank's lending limit;

(v) amounts paid against uncollected funds in the normal process of collection;

(vi) with regard to participations:

(A) that portion of a loan or extension of credit sold as a participation by a bank on a nonrecourse basis, provided that the participation results in a pro rata sharing of credit risk proportionate to the respective interests of the originating and participating lenders. Where a participation agreement provides that repayment must be applied first to the portions sold, a pro rata sharing will be deemed to exist only if the agreement also provides that, in the event of a default or comparable event defined in the agreement, participants ~~shall~~ must share in all subsequent repayments and collections in proportion to their percentage participation at the time of the occurrence of the event;

(B) when an originating bank funds the entire loan, it must receive funding from the participants before the close of business of its next business day. If the participating portions are not received within that period, then the portions funded will be treated as a loan by the originating bank to the borrower. If the portions so attributed to the borrower exceed the originating bank's lending limit, the loan may be treated as nonconforming subject to the circumstances included in 12 CFR 32.2(q)(2)(vi)(B) rather than a violation if:

(I) the originating bank had a valid and unconditional participation agreement with one or more participants that was sufficient to reduce the loan to within the originating bank's lending limit;

(II) the participant reconfirmed its participation and the originating bank had no knowledge of information that would permit the participant to withhold its participation; and

(III) the participation was to be funded by close of business of the originating bank's next business day.

(12) "Qualifying central counterparty" has the same meaning as the term has in 12 CFR Part 3, Appendix C, Section 2.

(13) "Qualifying master netting agreement" means any written, legally enforceable bilateral agreement, provided that:

(a) the agreement creates a single legal obligation for all individual transactions covered by the agreement upon an event of default, including bankruptcy, insolvency, or similar proceeding of the counterparty;

(b) the agreement provides the bank the right to accelerate, terminate, and close-out on a net basis all transactions under the agreement and to liquidate or set off collateral promptly upon an event of default of the counterparty, including upon an event of bankruptcy, insolvency, or similar proceeding, provided that, in any such case, any exercise of rights under the agreement will not be stayed or avoided under applicable law in the relevant jurisdictions;

(c) the bank has conducted sufficient legal review to conclude with a well-founded basis (and maintains sufficient documentation of that legal review) that:

(i) the agreement meets the requirements of (13)(b); and

(ii) in the event of a legal challenge (including one resulting from default or from bankruptcy, insolvency, or similar proceedings), the relevant court and administrative authorities would find the agreement to be legal, valid, binding, and enforceable under the law of the relevant jurisdictions;

(d) the bank establishes and maintains procedures to monitor possible changes in relevant law and to ensure that the agreement continues to satisfy the requirements of this definition; and

(e) the agreement does not contain a walkaway clause (that is, a provision that permits a ~~nondefaulting~~ non-defaulting counterparty to make a lower

payment than it would make otherwise under the agreement, or no payment at all, to a defaulter or the estate of a defaulter, even if the defaulter or the estate of the defaulter is a net creditor under the agreement).

(14) "Securities financing transaction" means a repurchase agreement, reverse repurchase agreement, securities lending transaction, or securities borrowing transaction.

(15) "Type I securities" means:

(a) obligations of the United States;

(b) obligations issued, insured, or guaranteed by a department or an agency of the United States government, if the obligation, insurance, or guarantee commits the full faith and credit of the United States for the repayment of the obligation;

(c) obligations issued by a department or agency of the United States government or an agency or political subdivision of a state of the United States, that represent an interest in a loan or a pool of loans made to third parties, if the full faith and credit of the United States have been validly pledged for the full and timely payment of interest on, and principal of, the loans in the event of nonpayment by the third party obligor(s); and

(d) general obligations of a state of the United States or any political subdivision thereof; and

(e) municipal bonds if the bank is well capitalized.

Authorizing statute(s): 32-1-211, 32-1-218, 32-1-432, MCA

Implementing statute(s): 32-1-211, 32-1-432, MCA

Reasonable Necessity Statement

In reference to the amendment in (1)(c), ARM 2.59.108 was repealed on September 12, 2020, in MAR Notice No. 2-59-596, and replaced with ARM 2.59.138 through 2.59.143. The meaning of ARM 2.59.108 was not changed but rather redrafted to improve readability and aid in comprehension.

2.59.129 CREDIT EXPOSURE ARISING FROM DERIVATIVES AND SECURITIES FINANCING TRANSACTIONS

(1) For purposes of determining a bank's lending limit under 32-1-432, MCA, the bank's credit exposure arising from a derivatives transaction or a securities financing transaction entered by a bank must be calculated in accordance with the methods and models contained in Appendix A to ARM 2.59.129, ~~dated~~ April 20, 2015, version, which is adopted and incorporated by reference. Appendix A to ARM 2.59.129, ~~dated~~ April 20, 2015, version, may be found on the department's ~~web site~~ website at ~~http://banking.mt.gov/Home/Forms under Banks and Trust Companies~~ banking.mt.gov.

Authorizing statute(s): 32-1-218, 32-1-432, 32-1-433, MCA

Implementing statute(s): 32-1-432, 32-1-433, MCA

2.59.130 CHANGE IN CONTROL

(1) An applicant filing under 32-1-378(1)(b), MCA, ~~shall~~ must use the Application for Change in Control form, ~~dated June 29, 2020~~ April 30, 2025, version, which is located at ~~www.banking.mt.gov~~ banking.mt.gov.

(2) An applicant or other person subject to this rule ~~shall~~ must notify the department immediately of any material changes ~~in~~ relevant to a notice or application submitted to the department, including changes in financial or other conditions.

(3) The department may require a person who is obligated to file an application under 32-1-378, MCA, to appoint a registered agent in this state for service of process upon the filing of such notice or as a condition to the acceptance of such application for review.

Authorizing statute(s): 32-1-211, 32-1-378, MCA

Implementing statute(s): 32-1-211, 32-1-378, MCA

2.59.134 CONVERSION OF A NATIONAL BANK TO A STATE BANK

(1) Upon conversion:

(a) the resulting state bank ~~succeeds, without other transfer, to~~ has all the rights and property of the converted bank and ~~is subject to~~ all the debts and

liabilities of the converted bank in the same manner as if the resulting state bank itself had incurred them;

(b) all rights of creditors of the converted bank and all liens upon the converted bank's property are unimpaired by the transfer, provided that the liens are limited to the affected property immediately prior to the time when the conversion became effective;

(c) title to all real, personal, and mixed property owned by the converted bank is vested in the resulting state bank without reversion or impairment and without the necessity of any instrument of transfer;

(d) the resulting state bank has all the liabilities, duties, and obligations of the converted bank, including obligations as fiduciary, personal representative, administrator, trustee, or guardian; and

(e) any pending action or other judicial proceeding to which the converted bank was a party may continue to be prosecuted to final judgment, order, or decree as if the conversion had not occurred, or the resulting bank may be substituted as a party to the action or proceeding.

(2) Upon conversion, a resulting bank that is organized under the laws of this state:

(a) ~~shall~~ must designate and operate a location of the converted bank as its main banking house; and

(b) may maintain the branch banks and other offices previously maintained by the converted bank.

(3) A bank that desires to convert from a national bank to a state bank ~~shall~~ must use the Application for Conversion of an Existing National-Chartered Bank to a State-Chartered Bank form~~, dated June 30, 2020~~ April 30, 2025, version, which is located on the department's website at banking.mt.gov.

(4) A nonrefundable application fee of $1,500 must be paid to the department at the time of application.

Authorizing statute(s): 32-1-218, MCA

Implementing statute(s): 32-1-374, MCA

Reasonable Necessity Statement

The department proposes to establish a $1,500 fee for applications for conversion to a state charter. The department's staff will spend a moderate amount of time reviewing and analyzing a conversion application. The department is self-funded through assessments on banks, mutual associations, and credit unions as well as licensing fees for other programs the division

administers. The department receives no general fund appropriation. The application fee is necessary to make the fee commensurate with the associated costs of the department. At this time, the department does not anticipate any new charter conversion applications, so no known person will be affected by this fee and the cumulative amount anticipated for all persons is zero.

2.59.135 FORM TO REPORT DIRECTORS AND OFFICERS

(1) Banks ~~shall~~ must ~~use~~ file the List of Officers and Directors form~~,~~ ~~dated~~ June 29, 2020, version, ~~which is~~ located on the department's website at ~~www.banking.mt.gov~~ banking.mt.gov to report the directors and officers elected at the annual meeting and the board meeting to the department. ~~The report shall be submitted to the department within thirty days of the date of the last meeting at which an election of officers or directors was held.~~

Authorizing statute(s): 32-1-211, 32-1-218, MCA

Implementing statute(s): 32-1-211, 32-1-218, 32-1-322, 32-1-325, MCA

Reasonable Necessity Statement

The 2023 Montana Legislature amended 32-1-325, MCA, in House Bill 138, to provide a fixed due date of July 31 for the submission of the List of Officers and Directors form.

2.59.902 DEFINITIONS

For purposes of this subchapter, the following definitions apply:

(1) "Consolidate" means a combination of two or more office locations within the same immediate neighborhood that does not substantially affect the nature of the business or customers served. ~~Thus, for~~ For example, a consolidation of two branches on the same block following a merger would not constitute a branch closing. Banks that are in doubt about whether a consolidation or a closing has occurred should consult the department. A consolidation is considered a relocation for purposes of ARM 2.59.903 and 2.59.907.

(2) "Customer" means a person who opened an account at the branch location in question, is currently associated with that branch, or whose address is within the same municipal area as the branch, as the bank determines is appropriate.

(3) "Principal city" means an area designated as a "principal city" by the federal Office of Management and Budget.

(4) "Relocate" means a movement within the same immediate neighborhood that does not substantially affect the nature of the business or customers served. Generally, relocations involve movement over a short distance.

(5) "Short distance" means:

(a) within a 1,000-foot radius of the current location of the branch or loan production office if it is located within the principal city of a metropolitan statistical area (MSA);

(b) within a one-mile radius of the current location of the branch or loan production office if the branch or loan production office is not located within a principal city, but is within an MSA; or

(c) within a two-mile radius of the branch or loan production office if it is not located in an MSA.

Authorizing statute(s): 32-1-211, 32-1-218, 32-1-222, 32-1-372, MCA

Implementing statute(s): 32-1-211, 32-1-218, 32-1-222, 32-1-372, MCA

Reasonable Necessity Statement

The department proposes to amend this rule to clarify that the short distance requirement also pertains to loan production offices. The definition of "branch" in 32-1-109(6), MCA, specifically states that the term does not include a loan production office.

2.59.903 LOAN PRODUCTION OFFICE

(1) A bank that desires to establish a new loan production office in this state ~~shall provide written notice to~~ must obtain prior approval from the department ~~of its intent to do so at least thirty days prior to opening the loan production office using the Notice of Intent to Establish a Loan Production Office form dated June 29, 2020, located at www.banking.mt.gov~~.

(2) A bank must file an application with the department prior to opening a loan production office using the Application to Establish a Loan Production Office form, April 30, 2025, version, located at banking.mt.gov. If an application is incomplete, the department must notify the applicant by e-mail. An application will not be considered to have been received until it is in a complete form. An application is complete when all information required by the application form has been submitted and received. The department may request additional information from an applicant even if the application is considered complete.

(3) The department must approve or deny the application within 45 days of:

(a) the date of the last publication of the notice of intent to establish a new loan production office; or

(b) the date on which a complete application is received, whichever is later.

(4) The 45-day deadline may be extended by the department when review of the complete application raises questions or concerns that require additional information from the applicant or any other entity or person. The applicant or other entity or person shall have 60 days to provide the requested information to the department. Following the receipt of all requested additional information and a complete application, the department may extend its review by a one-time 14-calendar day period.

~~(2)~~(5) A bank organized under the laws of Montana that intends to open a loan production office in another state ~~shall~~ must submit copies of all required regulatory filings or notices required by the host state and federal agencies along with the items required in the ~~Notice~~ Application of Intent to Establish a Loan Production Office form, if they are not already included in the form, to the department.

~~(3)~~(6) A Montana state-chartered bank that desires to relocate or close a loan production office temporarily or permanently ~~shall~~ must give notice to its customers using the ~~customer~~ Notice of Relocation of Loan Production Office form~~, dated June 29, 2020~~ April 30, 2025, version, or ~~customer~~ Notice of Closure of Loan Production Office form~~, dated June 29, 2020~~ April 30, 2025, version, located at ~~www.banking.mt.gov~~ banking.mt.gov.

~~(4)~~(7) The relocation or closure form ~~shall~~ must be ~~provided to customers of the loan production office by posting~~ posted ~~it~~ at the loan production office at least ~~fifteen~~ thirty days before the relocation or closure of the office. The relocation or closure form ~~shall~~ must be provided to the department at the same time.

~~(5)~~(8) The department reserves the right to request additional information regarding opening, closing, or relocation of a loan production office.

~~(6)~~(9) If the loan production office will be using an assumed name, compliance with 32-1-402, MCA, is required.

~~(7)~~(10) Each loan production office ~~shall be~~ is subject to examination and supervision by the department in the same manner and to the same extent as the bank.

~~(8) Each loan production office operating in Montana as of the effective date of this rule, shall provide written notice to the department containing the information required in (1) on or before October 1, 2020.~~

Authorizing statute(s): 32-1-211, 32-1-218, 32-1-222, MCA

Implementing statute(s): 32-1-211, 32-1-222, 32-1-561, 32-1-562, 32-1-563, 32-1-564, 32-1-565, MCA

Reasonable Necessity Statement

The 2023 Montana Legislature amended 32-1-222, MCA, in House Bill 138, to require a bank to submit an application to the department to establish a loan production office rather than submitting a notification to the department. The department has a process to review and approve branches. The 2023 Montana Legislature made the process for review and approval of loan production offices consistent with the branch process. However, the department added clarification in (4), stating that an applicant or other entity or person must provide any additional requested information to the department within 60 days. Without this, the application would remain open indefinitely. By adding in the 60-day time frame, it will allow the department to close and/or deny an application. This proposed change will also be amended in the branch application rules of ARM 2.59.1102(3)(c).

The purpose of (8) was met in 2020 and is no longer applicable.

2.59.904 BRANCH BANKS

(1) A bank organized under the laws of this state that is a qualifying institution, as set forth in (2), may establish a branch in Montana upon summary notice and approval by the department. The notice ~~shall~~ must be given using the Request for Summary Approval of Branch form, ~~dated June 29, 2020~~ April 30, 2025, version, which is located at ~~www.banking.mt.gov~~ banking.mt.gov.

(2) In order to qualify for summary notice, the bank ~~shall~~ must:

(a) have ~~received its~~ operated a bank charter in good standing for at least five years prior to making the request;

(b) be well-capitalized as defined in 12 CFR Part 324 by the Federal Deposit Insurance Corporation, if the bank is a nonmember bank; or as defined in 12 CFR 208.43(b)(1) by the Federal Reserve Board of Governors, if the bank is a member bank of the Federal Reserve System;

(c) have received a CAMELS composite rating of one or two on its most recent state or federal regulatory safety and soundness examination;

(d) have received a management rating of one or two on its most recent state or federal regulatory examination; and

(e) not be a party to any formal or informal enforcement action initiated by a state or federal regulatory agency.

(3) The bank ~~shall~~ must certify that it is a qualifying institution as of the date of the request.

(4) A bank that is not a qualifying institution as of the date of the request ~~shall~~ must comply with ARM 2.59.1101 and 2.59.1103.

(5) The department ~~shall~~ must approve or deny a summary notice and application within 15 business days of receipt of a complete notice and application.

Authorizing statute(s): 32-1-211, 32-1-218, 32-1-372, MCA

Implementing statute(s): 32-1-211, 32-1-218, 32-1-372, MCA

Reasonable Necessity Statement

The department proposes to amend (2)(a) to establish that only banks which have consistently demonstrated good practices will be recognized as qualifying institutions and able to utilize the summary approval process.

2.59.906 BANKS ORGANIZED OUTSIDE OF MONTANA BRANCHING INTO MONTANA

(1) Banks organized under the laws of a state other than Montana ~~or a~~ and national banks must submit copies of all required regulatory filings or notices required by the home state and federal agencies to the department and comply with ARM ~~2.59.904~~ 2.59.1101 and 2.59.1103 in order to branch into Montana.

Authorizing statute(s): 32-1-211, 32-1-218, 32-1-372, MCA

Implementing statute(s): 32-1-211, 32-1-218, 32-1-372, MCA

Reasonable Necessity Statement

The department proposes to amend this rule to clarify that banks organized out of Montana must provide the requirements in ARM 2.59.1101 and 2.59.1103. Only a bank organized in Montana can be considered a qualifying institution and use the summary notice process provided in ARM 2.59.904.

2.59.907 CLOSING OR RELOCATING A BRANCH BANK

(1) A Montana state-chartered bank that desires to relocate or close a branch temporarily or permanently ~~shall~~ must give notice to its customers using the

~~customer~~ Notice of Relocation of Bank Branch form, ~~dated June 29, 2020~~ April 30, 2025, version, or ~~customer~~ Notice of Closure of Bank Branch form, ~~dated~~ June 29, 2020, version. The forms are located on the department's website at ~~www.banking.mt.gov~~ banking.mt.gov. A bank may amend the form as needed or include additional information in the form as appropriate.

(2) The relocation or closure form ~~shall~~ must be ~~provided to customers of the branch by posting~~ posted ~~it~~ at the branch at least thirty days before the relocation or closure of the branch. The relocation or closure form ~~shall~~ must be provided to the department at the same time. The bank ~~shall~~ must also notify its customers at least thirty days before the relocation or closure~~,~~ by any effective method.

(3) The department reserves the right to request additional information regarding ~~closing~~ the closure or relocation of a branch.

Authorizing statute(s): 32-1-211, 32-1-218, 32-1-372, MCA

Implementing statute(s): 32-1-211, 32-1-218, 32-1-372, MCA

Reasonable Necessity Statement

The department proposes to amend this rule by providing the full name of the form and removing any unnecessary language.

2.59.1101 APPLICATION PROCEDURE FOR APPROVAL TO ESTABLISH A NEW BRANCH BANK

(1) An existing state-chartered bank that does not meet the criteria in ARM 2.59.904(2) ~~shall~~ must file with the department an application for approval to establish and operate a new branch bank.

(2) Applications ~~shall~~ must be submitted to the department using the Uniform Interstate Application/Notice form. Electronic submission of applications to banking@mt.gov is preferred.

(3) The applicant ~~shall~~ must publish its notice of intent to establish a new branch bank using the following procedure:

(a) if the application for a new branch bank also requires the approval of either the ~~f~~Federal ~~r~~Reserve ~~s~~System or the ~~f~~Federal ~~d~~Deposit ~~i~~Insurance ~~c~~Corporation, the notice ~~shall~~ must be published at the times and in the format required by the federal agency, except that the notice ~~shall~~ must include the following information which may be rephrased as needed: "Comments regarding this application should be forwarded in writing via email to banking@mt.gov. Comments will also be accepted by mail

addressed to the ~~Commissioner~~ Division of Banking and Financial Institutions, Department of Administration, ~~301 South Park,~~ P.O. Box 200546, Helena, MT 59620-0546. The application may be reviewed, during the comment period, at the above address by calling the ~~commissioner's office~~ department at (406) 841-2920 and requesting an appointment";

(b) if the applicant does not fall under the regulatory jurisdiction of either the ~~f~~Federal ~~r~~Reserve ~~s~~System or the ~~f~~Federal ~~d~~Deposit ~~i~~Insurance ~~c~~Corporation, or if the publication requirement of the federal regulator has been eliminated, the notice ~~shall~~ must be published, following a format obtained from the department, in a newspaper of general circulation in the community or communities where the main office of the bank and proposed branch bank are located. If there is no such newspaper in the community, then the notice ~~shall~~ must be published in the closest major newspaper of general circulation ~~published nearest thereto~~. Publication ~~shall~~ must be made at least once a week on the same day for two consecutive weeks.

(4) All written comments concerning the application must be received by the department no later than 15 calendar days following the date of the last publication of the notice of intent. Comments received more than 15 calendar days after the date of the last publication will not be considered in the decision to approve or deny the application.

(5) The application ~~shall~~ must be emailed or delivered to the department not more than ten days subsequent to the first publication of notice.

Authorizing statute(s): 32-1-218, 32-1-372, MCA

Implementing statute(s): 32-1-218, 32-1-372, MCA

Reasonable Necessity Statement

The department proposes to amend (3)(b) to provide clarity regarding the type of newspaper required. The amendment specifies that it should be the closest major newspaper in proximity to the main office and for the proposed new branch. Major newspapers are typically published daily reaching a wide audience. This change aims to ensure that the selected newspaper effectively reaches relevant members of the community.

2.59.1102 REVIEW PROCEDURE FOR APPLICATIONS FOR APPROVAL TO ESTABLISH A NEW BRANCH BANK

(1) The ~~division~~ department ~~shall~~ must process applications for new branch banks in the order in which they are received. If an application is incomplete, the ~~division~~ department ~~shall~~ will notify the applicant by e-mail. An application will not be considered to have been received until it is in a complete form. An application is complete when all information required by the application form has been submitted and received. The ~~division~~ department may request additional information from an applicant even if the application is considered complete.

(2) Factors that will be considered when determining whether to approve an application to establish a new branch bank include, but are not limited to, the following:

(a) the financial history and condition of the applicant;

(b) the capital levels and capital structure of the applicant;

(c) the quality, financial and banking experience and depth of management of the applicant and the proposed branch bank;

(d) the convenience and needs of the community to be served at the proposed location of the new branch bank as evidenced by a brief statement provided by the applicant;

(e) earnings prospects of the applicant after establishing the new branch bank; and

(f) any other factors ~~the division considers~~ that could adversely affect the safety and soundness of the applicant or the viability of the new branch bank.

(3) The department ~~shall~~ must ~~issue its order approving or denying~~ approve or deny the application within 45 days ~~after~~ of:

(a) the date of the last publication of the notice of intent to establish a new branch bank; or

(b) the date on which a complete application is received, whichever is later~~;~~.

~~(c)~~(4) The 45-day deadline may be extended by the ~~division~~ department when review of the complete application raises questions or concerns that require additional information from the applicant or any other entity or person. ~~Once the additional information is received by the division , the 45-day deadline may be extended by no further than 14 calendar days.~~ The applicant or other entity or person shall have 60 days to provide the requested information to the department. Following the receipt of all requested additional information and a complete application, the department may extend its review by a one-time 14-calendar day period.

~~(4)~~(5) When the department ~~or board~~ approves an application to establish a new branch bank, it will provide written notification to the applicant and the appropriate

federal regulatory agency(s). The notification will include any conditions subject to the approval. Summary notification of the decision will be mailed to all persons or entities that have submitted written comment to the application.

~~(5)~~(6) When the department denies an application to establish a new branch bank it will provide written notification to the applicant, the appropriate federal regulator(s), and all persons or entities that have submitted written comment to the application. The written notification to the applicant will include the reasons for the denial.

~~(6)~~(7) If an administrative hearing is requested under MAPA on the denial of an application, the time for the filing of a request for a hearing must occur within 14 calendar days following the department's decision.

Authorizing statute(s): 32-1-218, 32-1-372, MCA

Implementing statute(s): 32-1-218, 32-1-372, MCA

Reasonable Necessity Statement

The department proposes amending (3)(c) to state that an applicant or other entity or person must provide any additional requested information to the department within 60 days. Without this, the application would remain open indefinitely. By adding in the 60-day time frame, it will allow the department to close and/or deny an application.

TRANSFER AND AMEND

The rules proposed to be transferred and amended are as follows, stricken matter interlined, new matter underlined:

2.60.203 (2.59.2202) APPLICATION PROCEDURE FOR A CERTIFICATE OF AUTHORIZATION FOR A STATE-CHARTERED BANK

(1) ~~One or more individual incorporators desiring to organize a bank shall file with the Commissioner of Banking and Financial Institutions an application to the State Banking Board for a certificate of authorization for a state-chartered bank.~~ The ~~Division of Banking and Financial Institutions of the Department of Administration~~ application for a proposed new depository bank to be located in Montana must submit the following forms, which are adopted and incorporated by reference, to the department ~~adopts and incorporates by reference~~:

(a) the Interagency Charter and Federal Deposit Insurance Application, ~~(Expiration Date: August 31, 2019)~~ October 24, 2022, version, as the form that ~~shall~~ must be completed when applying for a certificate of authorization; and

(b) the Interagency Biographical and Financial Report, ~~(Expiration Date: April 30, 2017)~~ August 26, 2024, version, for use by individuals in conjunction with the Interagency Charter and Federal Deposit Insurance Application. The application and biographical and financial report are available ~~at~~ on the ~~Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546, or on the division web site~~ department's website located at ~~https://banking.mt.gov/Home/Forms~~ banking.mt.gov.

(2) A~~n~~ nonrefundable application fee of $10,000 ~~shall~~ must be paid to the ~~state of Montana~~ department at the time of application ~~and thereafter shall not be refundable in whole or in part~~.

(3) ~~With the application, the applicant must submit a summary of the evidence the applicant intends to present at the hearing for a new bank charter to demonstrate the applicant meets the standards listed in 32-1-203, MCA, so that the board may determine whether to grant or deny the application.~~ For purposes of this rule, a bank must be organized initially as a corporation under Title 35, chapter 14, MCA.

(4) ~~In the event that an application is incomplete in any respect or if additional information is required, the applicants will be so notified by the Division of Banking and Financial Institutions and allowed up to 60 days in which to perfect the application or provide additional information. An extension of this 60-day period may be obtained from the Division of Banking and Financial Institutions by showing good cause why it should be so extended.~~ Each incorporator must subscribe and pay in full, in cash, for common stock in a combined minimum amount determined by the department. The incorporators must identify for the department any incorporator or subscriber that will hold more than 10% of capital stock.

(5) ~~The board may request additional information from an applicant if, in its discretion, additional information is needed to reach a decision on the application.~~ Organizational expenses of any kind, including broker commissions to secure subscriptions, must not be paid from paid-in capital or surplus funds of the bank (or to the resulting deficit of the bank) without the prior approval of the department. Prior to filing an application for a certificate of authorization, incorporators must subscribe for shares or units in an amount the department deems adequate to pay all organizational expenses. Funds of incorporators must not be comingled with funds in any account into which non-incorporators deposit funds.

(6) The department may require publication of notice of the application in the closest major newspaper of general circulation and an affidavit of publication following completion.

(7) In determining whether an application is complete, the department may require a listing of subscribers showing that at least 80% of the stock has been subscribed.

Authorizing statute(s): ~~32-1-203,~~ 32-1-218, 32-1-240, MCA

Implementing statute(s): ~~32-1-203,~~ 32-1-240, MCA

Reasonable Necessity Statement

The department is proposing to transfer and amend this rule to enhance clarity for organizers regarding the requirements and minimum thresholds necessary for forming a bank, as authorized by the 2023 legislature in 32-1-302 and 32-1-307, MCA, enacted through HB 138. These proposed changes are designed to ensure that bank organizers maintain sufficient capital and refrain from utilizing bank capital for organizational expenses that could potentially distort the pro formas reviewed by the department. The 10% requirement is consistent with 12 C.F.R. § 225.41 concerning change in control for banks and bank holding companies.

The department has the authority to mandate the publication of a notice regarding the application in a newspaper that has general circulation. Following this publication, an affidavit confirming the publication must be submitted. However, if the department determines that such notice is not necessary, it can choose to waive this requirement. This flexibility allows the department to tailor its approach based on the specific circumstances of each application.

2.60.301 (2.59.2205) PERSUASIVE SHOWING OF REASONABLE PUBLIC NECESSITY AND DEMAND

(1) In determining whether ~~a~~ reasonable public necessity and demand is established ~~in any case~~, the ~~board~~ department ~~requires that these words be given a meaning which will~~ must assess the needs of the community as a whole and determine whether the proposed new depository bank will promote the public interest of the community ~~as a whole in having a sound banking structure, reasonably competitive and adequate for the needs of the community~~ and provide for a safe, sound, and reasonably competitive financial institution.

(2) In making this determination the following are among the factors which the ~~board~~ department may consider:

(a) the number of banks already serving the area in which the proposed bank would locate;

(b) the size of the area;

(c) the population of the area;

(d) the wealth of residents of the area;

(e) the commercial and industrial development of the area;

(f) the socio-economic trends of the area;

(g) the adequacy of the services being provided by existing banks compared to the needs of residents and the services to be offered by the proposed bank, including a detailed list of banking services that will be offered to the community to be served by the new bank;

(h) the capability of existing banks to handle potential growth of the area;

(i) the convenience of the location of existing banks to residents of the area as compared to the convenience of the proposed bank;

(j) the size of financial institutions in the area;

(k) the history of financial institutions in the area;

(l) an indication of the support the proposed bank could reasonably expect to receive from representative segments of the businesses and residents of the area; and

(m) the probability of the success of the proposed bank, including the backgrounds and expertise of management.

Authorizing statute(s): ~~32-1-203,~~ 32-1-218, 32-1-240, MCA

Implementing statute(s): ~~32-1-203,~~ 32-1-240, MCA

Reasonable Necessity Statement

This rule establishes the criteria that the department will utilize to assess reasonable public necessity and demand, in accordance with the requirements outlined in 32-1-240(2) and (3), MCA. The department proposes to transfer and amend this rule to offer both organizers and the public clear evaluation criteria for new banks and to ensure that any new bank not only meets but also upholds the standards anticipated by the department and the public alike.

2.60.303 (2.59.2206) CAPITAL ADEQUACY OF A PROPOSED NEW DEPOSITORY BANK~~S~~

(1) The applicant must provide ~~a~~ reasonable assurances that the proposed new depository bank will have adequate initial paid-in capital sufficient to accomplish the following:

(a) establish an undivided profits account in an amount great enough to absorb initial operating losses under foreseeable business conditions;

(b) maintain total capital and surplus accounts of adequate size to permit the proposed investment in building, land, furniture, and fixtures within the limitation of 100% of capital and surplus as imposed by 32-1-423, MCA;

(c) provide protection for depositors' funds to the same extent that the average of all insured commercial banks in the proposed depository bank's peer group provides capital protection, measured by the most current peer group data available on total capital accounts and reserves as a percentage of total assets. The proposed depository bank's reasonably estimated total assets at the end of its first three years of operation ~~shall~~ must be the basis upon which this standard ~~shall~~ will be projected; and

(d) to enable the depository bank to furnish competitive services that will ensure an amount of business sufficient to assure its success.

(2) The applicant must provide sufficient initial capital of each proposed new depository bank to be sufficient for a tier 1 capital to assets leverage ratio of not less than 8 percent throughout the first three years of operation. In addition, the institution must maintain an adequate allowance for credit losses. The business plan should not assume, for the first three years of operation, any new or additional capital raises beyond the initial capital contributions made during the institution's organization phase. During the first three years of operation, cash dividends must be paid only from net operating income, and should not be paid until an appropriate allowance for credit losses has been established and overall capital is deemed adequate by the department. Applicants should not assume that the institution will make any dividend payments during this time frame.

(3) Preferred or convertible preferred stock may not be issued without the prior approval of the department. If approved, preferred and convertible preferred stock may not be retired for a period of three years after commencement of bank operations without the prior approval of the department, in which case, the department may require the sale of additional common stock to remedy any impairment of capital.

(4) A new depository bank must have a capital structure that the department deems safe, sound, and adequate based on the capital adequacy factors set forth in this rule.

Authorizing statute(s): ~~32-1-203,~~ 32-1-218, 32-1-240, MCA

Implementing statute(s): ~~32-1-203, 32-1-423,~~ 32-1-240, MCA

Reasonable Necessity Statement

New (2) is based on the FDIC requirements for new depository banks. It gives guidance to incorporators of new depository banks as to the amount of capital that will be needed for the first three years of its existence, how it is calculated, and how it can be used. Incorporators must be prepared to not make a profit for the first three years, cover normal credit losses during that time, and still maintain capital sufficient to maintain operations, fund the

allowance, and cover expenses without the need to raise any additional capital. These requirements are in place as incorporators of new depository banks must be prepared to withstand the challenges of opening an insured depository institution without risking loss to the FDIC's insurance fund.

Section (3) is being proposed to protect capital at newly formed institutions.

Section (4) is updated to reflect that the capital structure submitted by the applicant must meet both short, intermediate, and long term adequacy standards in order to be approved.

2.60.304 (2.59.2209) ~~BANKS -~~ FDIC INSURANCE REQUIRED

(1) To comply with ~~32-1-203~~ 32-1-242, MCA, it has been determined by the ~~state banking board~~ department that it is in the public interest to require all commercial banks to be accepted by the Federal Deposit Insurance Corporation for the insurance of deposits. The ~~board~~ department will not ~~order the commissioner of banking and financial institutions to~~ issue a certificate of authorization to a proposed new bank unless:

(a) the ~~division of banking and financial institutions~~ department has received official notice that the proposed bank has been accepted for insurance of deposits; or~~,~~

(b) the ~~division of banking and financial institutions~~ department has received satisfactory assurance from the ~~FDIC~~ Federal Deposit Insurance Corporation or the Federal Reserve Bank of Minneapolis that the proposed bank will be accepted for insurance when the ~~proponents~~ applicant ~~comply~~ complies with certain stated minor requirements imposed by the ~~FDIC~~ Federal Deposit Insurance Corporation. Such "minor requirements" must be of a type and character which the ~~board~~ department determines can be promptly complied with by the ~~proponents~~ applicant without serious difficulty.

Authorizing statute(s): ~~32-1-203,~~ 32-1-218, 32-1-240, MCA

Implementing statute(s): ~~32-1-203,~~ 32-1-242, MCA

2.60.305 (2.59.2204) PRO FORMA STATEMENT

(1) An operational projection ~~shall~~ must be submitted as part of the application for ~~new~~ proposed new depository bank charters, in order to show that the new bank will remain solvent while meeting the requirements set forth in ~~ARM 2.60.303~~ 32-1-240

through 32-1-245, MCA, and [NEW RULE 3 (ARM 2.59.2203)]. The pro forma statement will include, at a minimum:

(a) a projected three-year comparative balance sheet and income projection based on reasonable market conditions and a supportable business and marketing plan that addresses the factors in ARM 2.59.2205(2)~~,~~;

(b) information on start-up costs, including legal fees, and other costs that may be amortized~~,~~; and

(c) costs associated with fixed assets and their maintenance.

(2) The statement will reasonably estimate the volumes of business the new bank anticipates in the first three-year period, as supported by a business and marketing plan, and will show its reasons for believing it will develop such business aggregates.

Authorizing statute(s): ~~32-1-203,~~ 32-1-218, 32-1-240, MCA

Implementing statute(s): ~~32-1-203,~~ 32-1-240, MCA

Reasonable Necessity Statement

The applicant is required to submit a pro forma statement to the department to demonstrate that it will maintain solvency during the initial three years of operation. This rule outlines the specific information that the department needs to effectively review applications and assess initial capitalization requirements, as detailed in 32-1-244 and 32-1-243(3), MCA, respectively.

The language in (2) is being updated to reflect that the projections should be based on reasonable market conditions and a supportable business and marketing plan.

2.60.501 (2.59.2208) A STATE BANK ORGANIZED FOR THE PURPOSE OF ASSUMING DEPOSIT LIABILITY OF ANY CLOSED BANK

(1) All provisions of ~~ARM 2.60.202 and 2.60.203, application procedures, apply except ARM 2.60.203(3), summary of evidence demonstrating reasonable public necessity and demand for a new bank. The provisions of ARM 2.60.302 through 2.60.304 also apply~~ 32-1-240 through 32-1-245, MCA, and ARM 2.59.2201 through 2.59.2209 are applicable.

(2) Prior to submitting a bid for the assets and liabilities of a closed bank, organizers must:

(a) appoint a spokesperson who is empowered to speak for and sign documents on behalf of the organization;

(b) have written verification in hand that capital for the new bank is on deposit and will be available prior to the new bank opening;

(c) have written verification of blanket bond coverage for the new bank; and

(d) provide all details of the proposed purchase arrangement along with a copy of the purchase and assumption agreement and other related documents required by the closed bank receiver.

(3) ~~If the bidder for the closed bank contemplates using an existing state bank to acquire assets and assume liabilities of a closed bank only ARM 2.60.303 applies.~~ Details of the proposed purchase along with a copy of the purchase and assumption agreement must be submitted to the department prior to submitting a bid for the closed bank.

~~(4) Details of the proposed purchase along with a copy of the purchase and assumption agreement must be submitted to the Division of Banking and Financial Institutions prior to submitting a bid for the closed bank.~~

~~(5) Approval of charter application under this rule will be accomplished through a telephone conference call with a quorum of the board participating.~~

Authorizing statute(s): ~~32-1-204,~~ 32-1-218, 32-1-240, MCA

Implementing statute(s): ~~32-1-204,~~ 32-1-240, MCA

Reasonable Necessity Statement

Any state bank can bid on the assets and liabilities of a closed bank. The department and the FDIC will determine if the institution has sufficient capital, management, and liquidity to be the successful bidder for the assets and liabilities of the closed bank.

In order for a group of organizers to set up a shell bank for the purpose of acquiring the deposit liability of a closed bank, they must appoint someone who is empowered to speak for the proposed new bank. These applications must move quickly, and the department needs an individual who can promptly respond to questions about the application. In order to set up a shell bank, (2)(a), (b), and (c) must be in place before a new charter can be approved.

The last two items, (2)(d) and (3), must be provided to the department so that the department can work with the federal regulators and the new bank organizers to effectuate the purchase.

2.60.901 (2.59.2302) A STATE BANK ORGANIZED FOR THE PURPOSE OF BEING A SHELL BANK

(1) ~~If a shell bank is being organized for the purpose of acquiring control of or acquiring all or substantially all of the assets of an existing bank or savings association, the organizers shall comply with 32-1-202 through 32-1-206 and 32-1-301 through 32-1-307, MCA, and the rules adopted thereunder.~~ For a bank organized solely for the purpose of merging with, or otherwise acquiring, an existing bank or savings association is referred to as a shell bank in this subchapter. A shell bank charter may only be obtained for the purpose of merging an existing bank into the shell bank, or for the purpose of merging the shell bank into an existing bank. A shell bank has no authority to conduct banking business until the shell bank has completed a merger with an existing bank or savings association.

(2) ~~An application for a shell bank organized solely for the purpose of merging with an existing bank or savings association is governed by this subchapter.~~ For a shell bank organized for the purpose of merging with, acquiring control of, or acquiring all or substantially all of the assets of an existing bank or savings association, including a mutual savings and loan association, the applicant must comply with 32-1-246, MCA, and the rules adopted thereunder.

(3) ~~A shell bank organized solely for the purpose of merging with an existing bank or savings association is referred to as an interim bank in this subchapter. An interim bank has no authority to conduct a banking business until merged with an existing bank or savings association.~~ Upon approval of a complete application as stipulated in [ARM 2.60.902 (2.59.2303)], the department must issue to the applicant a certificate to organize the shell bank, and the applicant must file articles of incorporation of the shell bank with the department.

(4) ~~The provisions of this subchapter do not apply to a state bank organized for the purpose of assuming deposit liabilities of any closed bank governed by ARM 2.60.501.~~ The minimum level of capital stock for a shell bank is $5,000. The establishment of a paid-in capital account, contingent fund, or surplus is not required for a shell bank.

(5) If the existing bank is the surviving charter in a merger or consolidation, the shell bank's capital stock may be canceled and transferred to the surplus of the surviving entity at the time of the merger or consolidation, or the stock of the surviving entity may be increased by the amount of the shell bank's capital stock through an amendment to the articles of incorporation of the existing bank.

(6) If the shell bank is the surviving charter in the merger or consolidation, and the total assets of the combined entity is similar to that of the existing bank, the capital stock of the shell bank immediately following the merger or consolidation must, by an amendment to the articles of incorporation of the shell bank, be increased to an amount at least equal to the capital stock of the existing bank prior to the merger or consolidation.

(7) If the shell bank is the surviving charter in the merger or consolidation, and the transaction results in a significant increase in total assets from what the existing bank reflects prior to the merger or consolidation, the capital stock of the shell bank immediately following the merger or consolidation must, by an amendment to the articles of incorporation of the shell bank, be increased to the greater of $1,000,000 or the amount of capital stock of the existing bank immediately prior to the merger or consolidation.

Authorizing statute(s): 32-1-218, 32-1-246, 32-1-371, MCA

Implementing statute(s): ~~32-1-109, 32-1-204, 32-1-218,~~ 32-1-246, MCA

Reasonable Necessity Statement

The department proposes to transfer and amend this rule to outline the permitted purposes and uses of a shell bank, as well as the criteria and requirements that must be met under 32-1-246, MCA. It is essential to clearly define the limited purpose of a shell bank to ensure that existing banks understand the specific circumstances under which a shell bank may be utilized in transactions, reorganizations, or other corporate events.

2.60.902 (2.59.2303) APPLICATION PROCEDURES

(1) An application to form ~~an interim~~ a shell bank must be ~~on the form in ARM 2.60.903~~ submitted to the department using the Shell Bank Charter Application form, April 30, 2025, version, located at banking.mt.gov.

~~(2) The application to form an interim bank must be filed with the department.~~

~~(3)~~(2) ~~The~~ At least 30 days prior to the effective date of any merger or business consolidation involving a shell bank, the applicant ~~shall~~ must publish ~~a~~ notice in a newspaper of general circulation in the community in which the main office of the proposed ~~interim~~ shell bank is to be located. If there is no such newspaper in the community, then ~~in a~~ the closest major newspaper of general circulation published nearest the community will suffice. The notice must run once a week for two consecutive weeks. The ~~public~~ notice must include:

(a) the name of the proposed ~~interim~~ shell bank;

(b) a brief summary of the purpose of the ~~interim~~ shell bank; and

(c) a reference to ARM ~~2.60.903~~ [2.60.901 (2.59.2302)], under which the proposed ~~interim~~ shell bank is to be formed~~; and~~.

~~(d) notice that interested persons are invited to comment on the application before the State Banking Board.~~

(3) A nonrefundable application fee of $10,000 must be paid to the department at the time of application.

(4) The applicant ~~shall~~ must provide the affidavit of publication to the department after it is received.

Authorizing statute(s): 32-1-218, 32-1-246, MCA

Implementing statute(s): ~~32-1-109, 32-1-218,~~ 32-1-246, MCA

Reasonable Necessity Statement

This rule sets forth the application procedures for a shell bank, as required under 32-1-246, MCA. The department proposes to transfer and amend (2) to clarify that publication of the notice must be at least 30 days before the effective date of the merger of the shell bank with the existing institution to allow sufficient time for publication of the required two consecutive notices. The application fee in (3) is standard for new depository bank applications.

2.60.904 (2.59.2306) DECISION OF ~~STATE BANKING BOARD~~ THE DEPARTMENT; INCORPORATION

(1) ~~Approval of an application for an interim bank certificate of authority under this rule will be accomplished through a telephone conference call with a quorum of the board participating.~~ The department's approval of a shell bank must be specifically conditioned on:

(a) the department's approval of the subsequent merger; and

(b) the resulting bank being accepted for deposit insurance by the Federal Deposit Insurance Corporation, or providing satisfactory assurance from the Federal Deposit Insurance Corporation that the resulting bank will be accepted for insurance when the applicant complies with certain stated minor requirements imposed by the Federal Deposit Insurance Corporation. "Minor requirements" must be of a type and character that the department determines can be promptly complied with by the applicants without serious difficulty.

(2) ~~The provisions of ARM 2.60.202 and 2.60.204(1) and (2) apply to an application for an interim bank certificate of authority.~~ Upon the department's approval of the shell bank application, the applicant must take the necessary steps to conform the

articles of incorporation and by-laws to the requirements of the department. The department must approve the articles and bylaws of the shell bank.

~~(3) Within two weeks after the conclusion of the hearing before the State Banking Board, the State Banking Board shall issue a decision as to whether to approve the application for the interim bank. This two-week period may be extended by two additional weeks if the State Banking Board or the department requires more time or information.~~

~~(4) The receipt and approval of the information in ARM 2.60.902 and 2.60.903 constitute sufficient authority for the State Banking Board to approve the issuance of a certificate of authorization to the interim bank.~~

~~(5) The State Banking Board may require additional information as it sees fit from an applicant before approving the application.~~

~~(6) The State Banking Board's approval shall be specifically conditioned on:~~

~~(a) the commissioner's approval of the subsequent merger; and~~

~~(b) the new institution being accepted for deposit insurance by the Federal Deposit Insurance Corporation.~~

~~(7) Upon the State Banking Board's approval of the interim bank application, the incorporator shall take the necessary steps to conform the articles of incorporation and by-laws to the requirements of the State Banking Board. The commissioner shall approve the articles and the department shall then file the necessary documents with the Secretary of State.~~

Authorizing statute(s): 32-1-218, 32-1-246, MCA

Implementing statute(s): ~~32-1-109, 32-1-202, 32-1-204, 32-1-205, 32-1-218, 32-1-302~~32-1-246, MCA

Reasonable Necessity Statement

The department proposes to transfer and amend this rule to establish the approval requirements for shell banks, as mandated by 32-1-246, MCA. These rules create the framework for the department to review and approve applications to ensure that shell banks are utilized appropriately and meet all required state and federal banking guidelines.

2.60.905 (2.59.2309) POWERS OF ~~INTERIM~~ A SHELL BANK BEFORE MERGER

(1) ~~An interim~~ Prior to completing a merger, a shell bank may take only those corporate and fiduciary steps and actions reasonably incidental and necessary to facilitate and complete the merger. Such limitation does not preclude the ~~State Banking Board~~ department from ~~ordering the department to grant~~ granting a certificate of authorization, and to otherwise facilitate and authorize the formation and incorporation of the ~~interim~~ shell bank. Following a merger, the shell bank, to the extent it survives as the resulting bank, will have the powers of a state bank under Title 32, MCA, as applicable.

Authorizing statute(s): 32-1-218, 32-1-246, MCA

Implementing statute(s): ~~32-1-109, 32-1-218,~~ 32-1-246, MCA

Reasonable Necessity Statement

The department proposes to transfer and amend this rule to establish additional criteria for the formation of a shell bank, as required by 32-1-246, MCA. It explicitly prohibits the operation of a shell bank as a deposit-taking bank unless it has successfully completed a merger or another transaction with an existing regulated bank.

2.60.906 (2.59.2310) PROOF OF MERGER: REVOCATION OF CERTIFICATE OF AUTHORIZATION

(1) From the date a~~n interim~~ shell bank is authorized according to this rule, the parties to the ~~interim~~ shell bank merger agreement have six months in which to effect the merger with the existing bank or savings association. The merger must proceed under 32-1-370 or 32-1-371, MCA.

(2) The department may grant extensions if the parties to the ~~interim~~ shell bank agreement show good cause as to why an extension is needed to complete the merger.

(3) The department may cancel or revoke the certificate of authorization of the ~~interim~~ shell bank (and may take such other steps as are appropriate at any time) if:

(a) proof of the merger between the ~~interim~~ shell bank and the existing bank or savings association has not been provided to the department at the end of the authorized time;

(b) the ~~interim~~ shell bank actually conducts any banking business prior to its proposed merger; or

(c) any related merger or consolidation application is denied or withdrawn.

Authorizing statute(s): 32-1-218, 32-1-246, MCA

Implementing statute(s): ~~32-1-218, 32-1-502,~~ 32-1-246, MCA

Reasonable Necessity Statement

The department proposes to transfer and amend this rule to clarify that an interim bank means a shell bank.

ADOPT

The rules proposed to be adopted are as follows:

NEW RULE 1 (2.59.144) REPORT OF SERVICE AND TECHNOLOGY PROVIDERS

(1) A state-chartered bank must file with the department a Report of Service and Technology Providers form, April 30, 2025, version, located at banking.mt.gov.

Authorizing statute(s): 32-1-218, 32-1-233, MCA

Implementing statute(s): 32-1-233, MCA

Reasonable Necessity Statement

The 2023 Montana Legislature amended 32-1-233, MCA, in House Bill 138, to require banks to file with the department an annual report of service and technology providers. House Bill 138 was signed by the Governor on February 28, 2023, and the section pertaining to the adoption of this proposed rule became effective on October 1, 2023.

The department proposes adopting this rule to provide banks with a form to notify the department about the existence of a service and/or technology provider relationship.

NEW RULE 2 (2.59.2201) DEFINITIONS

The following definition applies to rules within this subchapter:

(1) "Depository bank" means a bank as defined in:

(a) 32-1-105, MCA;

(b) 32-1-106, MCA;

(c) 32-1-107, MCA, if the bank engages in one or more of the purposes set forth in 32-1-107(1), (7), or (9), MCA; or

(d) 32-1-108, MCA.

Authorizing statute(s): 32-1-218, 32-1-240, MCA

Implementing statute(s): 32-1-102, 32-1-105, 32-1-106, 32-1-107, 32-1-108, MCA

NEW RULE 3 (2.59.2203) APPLICATION CONTENTS

(1) In order to comply with 32-1-242, MCA, the applicant must submit:

(a) the purpose of the proposed bank;

(b) the proposed location of the initial principal place of business;

(c) the class or classes of stock proposed to be issued, the proposed offering price per share, and the aggregate dollar amount of the proposed initial paid-in capital and justification for the amount of initial paid-in capital;

(d) the proposed name of the institution;

(e) the names and resumes of the proposed senior officers and the initial directors, at least three of whom must also be among the incorporators;

(f) the residential addresses and occupations of the proposed incorporators and directors;

(g) the proposed articles of incorporation and bylaws of the institution;

(h) the number of shares of voting stock proposed to be subscribed for by the incorporators and each of the proposed directors and senior officers, and the names and resumes of any other persons who are expected to subscribe for, to own or to control more than 10 percent of the voting stock and the amount of stock for which each proposes to subscribe;

(i) evidence of the character, financial responsibility, and ability of the incorporators, directors, senior officers, and owners;

(j) evidence, in the form of a business plan and such additional information as the department may require, demonstrating that the proposed banking institution is likely to be financially successful;

(k) the proposed policies of the banking institution;

(l) a statement as to whether the banking institution is to be a Montana commercial bank, a savings bank, a trust company, or an investment company and, if the proposed Montana commercial bank or savings bank is applying for trust powers, a statement to that effect; and

(m) any other information that the department may require.

(2) The department may request additional information from an applicant if, in its discretion, additional information is needed to reach a decision on the application.

Authorizing statute(s): 32-1-218, 32-1-240, MCA

Implementing statute(s): 32-1-240, 32-1-242, MCA

Reasonable Necessity Statement

The department proposes to adopt this rule to provide the application requirements to create a new bank that meets all state and federal guidelines and that prioritizes consumer protection. To initiate the chartering process, as outlined in 32-1-240(2), MCA, the department requires specific information from prospective banks.

NEW RULE 4 (2.59.2206) INSTITUTION NAME

(1) The name of a financial institution may not contain any word or phrase that indicates or implies that the institution is organized for any purpose other than one or more of the purposes contained in the institution's articles of incorporation.

(2) The name of the financial institution must be distinguishable from:

(a) the name or reserved name of any domestic or foreign financial institution registered with the Secretary of State;

(b) the name or reserved name of any corporation, professional corporation, nonprofit corporation, cooperative, limited liability company, limited partnership, or business trust currently on file with the Secretary of State; or

(c) any reserved, registered, or assumed business name currently on file with the Secretary of State.

(3) The department may refuse to permit a banking institution to use any name the director determines is not distinguishable from the name of a financial institution that is already lawfully engaging in banking business or making loans in this state.

(4) A banking institution may transact business under one or more assumed business names if the assumed business names meet the requirements of this rule.

Authorizing statute(s): 32-1-218, 32-1-240, MCA

Implementing statute(s): 32-1-240, 32-1-242, MCA

Reasonable Necessity Statement

The department proposes to adopt this rule to establish additional requirements aimed at fostering a safe and sound banking institution that prioritizes consumer protection. This rule is specifically designed to safeguard consumers and alleviate confusion within the banking system. This rule aids the department in interpreting 32-1-242(1)(g), MCA. The implementation of this rule is mandated under 32-1-240(3), MCA.

NEW RULE 5 (2.59.2207) FINGERPRINTING

(1) The department may require any person listed in 32-1-241, MCA, to submit to fingerprints for submission to the Federal Bureau of Investigation as well as a consent to a background check.

Authorizing statute(s): 32-1-218, 32-1-241, MCA

Implementing statute(s): 32-1-241, MCA

Reasonable Necessity Statement

The department proposes to adopt this rule to clearly outline the investigative requirements and the required consent of the organizers to complete the process of establishing a new bank. This rule is essential to ensure that all organizers are deemed fit to manage and oversee a bank in Montana, thereby safeguarding the integrity and stability of our financial institutions. The adoption of this rule is mandated under 32-1-241(1), MCA.

NEW RULE 6 (2.59.2304) DEPARTMENT TO REVIEW APPLICATION

(1) The department must ensure that sufficient information has been submitted to determine whether:

(a) the character, financial responsibility, and general fitness of the owners and managers of the proposed bank command the confidence of the community in which the proposed bank is to be located and warrant the belief that the business of the proposed corporation will be honestly and efficiently conducted;

(b) the proposed directors and officers are competent to successfully manage a bank; and

(c) the corporate name assumed by the proposed bank, by reason of the use of any one or more of the words "bank," "banker," "banking," "trust," "savings," or "investment" in conjunction with any other word or words, resembles so closely the name of any other bank previously formed under this chapter as to be likely to cause confusion.

(2) The department must approve or deny the application within 60 days from receipt of the application unless the department requests more information. The applicant or other entity or person must have 60 days to provide the requested information to the department. Following the receipt of all requested additional information and a complete application, the department may extend its review by a one-time 30-calendar day period.

Authorizing statute(s): 32-1-218, 32-1-246, MCA

Implementing statute(s): 32-1-246, MCA

Reasonable Necessity Statement

The department proposes to adopt this rule to clearly outline the review standards it will employ when evaluating applications to form new banks, as mandated by 32-1-242(2), MCA. This rule is designed to specify the type and quality of information that the department deems sufficient for consideration. Additionally, it will establish the processing timelines associated with these applications, ensuring transparency and efficiency in the review process.

NEW RULE 7 (2.59.2305) AUTHORITY TO REQUIRE ADDITIONAL INVESTIGATORY INFORMATION - FINGERPRINTING

(1) The department may investigate any person named in the application or in other documents submitted for filing. The department may require the person to provide additional information for the department's further inquiry.

(2) For the purpose of further inquiry, the department may require any individual named in the proposed articles of incorporation of the bank or documents submitted for filing as a prospective incorporator, director, president, or officer of

the bank to submit fingerprints for submission to the Federal Bureau of Investigation and any governmental agency or entity authorized to receive information for a state, national, and international criminal history background check.

Authorizing statute(s): 32-1-218, 32-1-246, MCA

Implementing statute(s): 32-1-246, MCA

Reasonable Necessity Statement

The department proposes to adopt this rule to clearly outline its requirements and obligations in thoroughly investigating individuals who seek to organize a bank. This rule is rooted in the necessity to ensure that all organizers meet the necessary standards of integrity and competence. Specifically, as provided in 32-1-241(1), MCA, this rule grants the department the authority to conduct comprehensive inquiries into the backgrounds of these organizers.

NEW RULE 8 (2.59.2307) GROUNDS FOR DENYING AN APPLICATION

(1) The department may deny an application on a finding that any person named in the application to organize or in other documents submitted for filing:

(a) is insolvent, either in the sense that the person's liabilities exceed the person's assets or that the person cannot meet the person's obligations as they mature, or is in a financial condition in which the person cannot continue in business with safety to the person's customers;

(b) has engaged in dishonest, fraudulent, or illegal practices or conduct in any business or profession;

(c) has willfully or repeatedly violated or failed to comply with any provisions of the Bank Act or any rule or order of the department;

(d) has been convicted of any felony or a misdemeanor, if an essential element of the crime is fraud or dishonesty;

(e) is not qualified to conduct a banking business on the basis of factors such as training, experience, and knowledge of the business;

(f) is permanently or temporarily enjoined by a court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the banking business or other business that may lawfully be conducted by an insured institution;

(g) is the subject of an order of the department subjecting the person to a civil penalty or removing the person from an office in any entity regulated by the department; or

(h) is the subject of an order directing the person to cease and desist from any fraudulent or unlawful business or banking practice, subjecting the person to a civil penalty, or removing the person from an office in a financial institution or a consumer finance company issued by a state, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, or any other agency of the federal government or another state with regulatory authority over financial institutions or consumer finance companies.

Authorizing statute(s): 32-1-218, 32-1-240, 32-1-246, MCA

Implementing statute(s): 32-1-246, MCA

Reasonable Necessity Statement

The department proposes to adopt this rule in accordance with 32-1-240(3), MCA, which outlines the necessary grounds for denying an application or an individual organizer or organizers seeking to form a new bank. This rule is essential not only for maintaining the integrity of the banking system but also for safeguarding consumers.

NEW RULE 9 (2.59.2308) ADDITIONAL REQUIREMENTS AFTER APPROVAL OF APPLICATION

(1) Following approval of the application, the incorporators must:

(a) file a signed original of the articles of incorporation with the department for filing with the Secretary of State and pay the filing fee;

(b) provide acceptable proof that the capital of the institution has been placed into escrow; and

(c) provide proposed bylaws that comply with Montana law to the department for review and approval.

Authorizing statute(s): 32-1-218, 32-1-246, MCA

Implementing statute(s): 32-1-246, MCA

Reasonable Necessity Statement

The department proposes to adopt this rule to establish the administrative requirements necessary for the formation of a bank in accordance with 32-1-245, MCA. It specifically outlines the documents that the department will require after the approval of a new bank. This regulation is mandated under 32-1-240(3), MCA.

NEW RULE 10 (2.59.2401) DEFINITIONS

The following definition applies to rules within this subchapter:

(1) "Nondepository trust company bank" means a bank as defined in 32-1-107, MCA, that engages in one or more of the purposes set forth in 32-1-107(2), (3), (4), (5), (6), or (8), MCA.

Authorizing statute(s): 32-1-218, 32-1-240, MCA

Implementing statute(s): 32-1-102, 32-1-105, 32-1-106, 32-1-107, 32-1-108, MCA

NEW RULE 11 (2.59.2402) CAPITAL ADEQUACY OF A NONDEPOSITORY TRUST COMPANY BANK

(1) The department may not issue a charter to a nondepository trust company bank having initial capital of less than $2 million.

(2) The department may, on a case-by-case basis, require additional capital, or the deposit of securities in the amount and types as directed by the department, for a proposed or existing nondepository trust company bank if the department finds the condition and operations of the existing nondepository trust company bank or the proposed scope or type of operations of the proposed nondepository trust company bank requires additional capital or securities to protect the safety and soundness of the institution. The safety and soundness factors to be considered by the department in the exercise of discretion include:

(a) the nature and type of business the nondepository trust company bank conducts or proposes to conduct;

(b) the nature and degree of liquidity in assets held or to be held in a corporate capacity;

(c) the amount, type, and depository of fiduciary assets that the nondepository trust company bank manages or proposes to manage;

(d) the complexity of the nondepository trust company bank's fiduciary duties or proposed fiduciary duties and degree of discretion undertaken;

(e) the competence and experience of the nondepository trust company bank's management or proposed management;

(f) the extent and adequacy of internal controls maintained or to be maintained by the nondepository trust company bank;

(g) the presence or absence of annual unqualified audits by an independent certified public accountant, if applicable;

(h) the reasonableness of the nondepository trust company bank's business plans for retaining or acquiring additional restricted capital; and

(i) the existence and adequacy of insurance obtained or held, or to be obtained or held, by the nondepository trust company bank to protect its clients, beneficiaries, and grantors.

Authorizing statute(s): 32-1-218, 32-1-240, MCA

Implementing statute(s): 32-1-102, 32-1-105, 32-1-106, 32-1-107, 32-1-240, 32-1-242, MCA

Reasonable Necessity Statement

NEW RULE 11 is based on other states' rules for capital adequacy for institutions that do not accept money on deposit. Since nondepository trust company banks do not accept money on deposit, they are not FDIC insured. Because these institutions are not FDIC-insured, the department must be able to require corporations acting in a fiduciary capacity to either inject additional capital or deposit securities with the department for the protection of the clients, beneficiaries, and grantors. If an institution does not have sufficient capital, the temptation is to spend monies held in trust. This jeopardizes not only the future of the institution but also the funds of clients, beneficiaries, and grantors. The department, not the FDIC, will be responsible to liquidate a state nondepository trust company bank that fails. Liquidating a failed institution is costly and time consuming. It requires hiring specialized experts to marshal, appraise, and sell assets, prepare the accounting and collect on debts owed to the institution, and settle claims against the institution. The department does not have the budget or personnel to cover the resources needed to liquidate a failed financial institution so the institution must have adequate capital or securities on deposit with the department at all times.

Initial capitalization of $2 million is the minimum necessary capitalization for a nondepository trust company bank at this time. However, the department must have discretion to require additional capital or for securities to be deposited with the department as necessary to ensure the safety and soundness of the institution based on the factors listed in (2) whether at initial set up or at any time during the life of the institution. This ensures that nondepository trust company banks remain well capitalized throughout the life of the institution.

REPEAL

The rules proposed to be repealed are as follows:

2.59.908 TEMPORARY EMERGENCY CLOSURE OF BRANCH

Authorizing statute(s): 32-1-211, 32-1-218, MCA

Implementing statute(s): 32-1-211, 32-1-218, 32-1-561, 32-1-562, 32-1-563, 32-1-564, 32-1-565, MCA

2.59.909 EMERGENCY CLOSURE OF BRANCH

Authorizing statute(s): 32-1-211, 32-1-218, MCA

Implementing statute(s): 32-1-211, 32-1-218, 32-1-561, 32-1-562, 32-1-563, 32-1-564, 32-1-565, MCA

2.59.1901 EXAMINATION FEES

Authorizing statute(s): 32-11-105, MCA

Implementing statute(s): 32-11-203, MCA

Reasonable Necessity Statement

The 2023 Montana Legislature repealed the Business and Industrial Development Corporations Act in Chapter 13, Laws of 2023 (Senate Bill 35). Senate Bill 35 was signed by the Governor on

February 16, 2023, and was effective on passage and approval. ARM 2.59.1901 is the only administrative rule under the Business and Industrial Development Corporations Act.

2.60.101 ORGANIZATION OF BOARD

Authorizing statute(s): Sec. 32-1-203, MCA

Implementing statute(s): Sec. 2-4-201, MCA

2.60.201 PROCEDURAL RULES

Authorizing statute(s): 32-1-203, MCA

Implementing statute(s): 2-4-201, MCA

2.60.202 INVESTIGATION RESPONSIBILITY

Authorizing statute(s): 32-1-203, MCA

Implementing statute(s): 32-1-203, MCA

2.60.204 PROCEDURAL RULES FOR DISCOVERY AND HEARING

Authorizing statute(s): 32-1-203, MCA

Implementing statute(s): 32-1-203, MCA

2.60.302 MANAGEMENT OF PROPOSED BANK

Authorizing statute(s): 32-1-203, MCA

Implementing statute(s): 32-1-203, MCA

2.60.903 APPLICATION TO FORM AN INTERIM BANK

Authorizing statute(s): 32-1-218, MCA

Implementing statute(s): 32-1-109, 32-1-218, MCA

Reasonable Necessity Statement

The department proposes to repeal this rule, as a new standardized form, the Shell Bank Charter Application, is being proposed in this notice under ARM 2.59.2303(1), which is being transferred from ARM 2.60.902.

2.60.907 FEES

Authorizing statute(s): 32-1-218

Implementing statute(s): 32-1-109, 32-1-218, MCA

Small Business Impact

The department adopts rules that primarily impact credit unions, banks, and other financial institutions and works in cooperation with these entities across the state to implement the rules that are adopted. Given that the department does not work directly with small businesses, the small business impact analysis performed as required by 2-4-111, MCA indicates that no small businesses are likely to be directly impacted by the proposed rule changes.

There will be a fiscal impact to banks upon adoption of the following proposed rules:

1. ARM 2.60.907: The department is proposing to repeal ARM 2.60.907 which includes a nonrefundable fee of $1,000 for shell bank applications. The department has only received one shell bank application in the past 10 years.
2. ARM 2.59.134(4): The department is proposing to amend this rule to include a nonrefundable fee of $1,500 for conversion applications, specifically national banks converting to a state bank. The department has received four conversion applications of this type since 2011.
3. ARM 2.60.203(2) (2.59.2202): The department is proposing to amend this rule to clarify that the application fee is nonrefundable. This is consistent with the other rules in the Bank Act pertaining to application fees. The department has not had a situation in which a bank application was withdrawn resulting in the forfeiture of the application fee to the department.

4. ARM 2.60.902 (2.59.2304): The department is proposing to amend this rule to include a nonrefundable fee of $10,000 for new depository bank applications. The department has not received a new depository bank application since 2006.

Documentation of the small business impact analysis is available upon request.

Bill Sponsor Notification

The department notified Senator Dan Salomon via email and regular USPS mail on July 9, 2025, of its intention to work on the substantive content and the wording of a proposal notice for rules that initially implements legislation, specifically SB 35 from the 2023 legislative session.

The department also notified Representative Tom Welch on July 1, 2025, via email of its intention to work on the substantive content and the wording of a proposal notice for rules that initially implements legislation, specifically HB 138 from the 2023 legislative session.

Interested Persons

The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this division. Persons who wish to have their name added to the mailing list must make a written request that includes the name, mailing address, and e-mail address of the person to receive notices and specifies that the person wishes to receive notices regarding division rulemaking actions. Notices will be sent by e-mail unless a mailing preference is noted in the request. Written requests may be mailed or delivered to the contact person listed in this notice or may be made by completing a request form at any rules hearing held by the department.

Rule Reviewer

Don Harris, Chief Legal Counsel

Approval

Misty Ann Giles

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DEPARTMENT OF COMMERCE

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-234.1

Summary

Adoption of a new rule (ARM 8.99.919) pertaining to the Opportunities in Rural Economies Program

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Hearing Date and Time

Thursday, August 14, 2025, at 10:00 a.m.

Virtual Hearing Information

The Department of Commerce will hold a public hearing via zoom to consider the proposed adoption of the above-stated rule.

Video: https://mt-gov.zoom.us/j/87907852239?pwd=H8KdG5ukpsout4Ki1oY9uwWRbKzEqZ.1

Webinar ID: 879 0785 2239

Passcode: 761208

Comments

Interested persons may submit data, views, or arguments orally at the Zoom hearing. Written data, views, or arguments may be submitted to Jada Maynor by email: DOCadministrativerules@mt.gov; or by mail: P.O. Box 200501, Helena, MT 59620. Comments must be received by Friday, August 22, 2025, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Tuesday, August 12, 2025, at 5:00 p.m.

Contact

Jada Maynor
(406) 841-2596
jada.maynor@mt.gov

General Reasonable Necessity Statement

The Department of Commerce proposes to adopt by reference the Opportunities in Rural Economies (ORE) Loan Participation and Economic Development Organization Capacity Building Grant Program Guidelines and incorporate the guidelines as rules of the department. This program is state-funded and authorized under the Big Sky Economic Development Program. The program is designed to promote job creation, long-term economic growth, business retention and expansion, and workforce development particularly in rural and underserved regions of Montana.

The guidelines establish the administrative framework including eligibility requirements, permissible uses of funds, application procedures, evaluation criteria, and compliance and reporting standards. Adoption of the guidelines is necessary to ensure compliance with Title 90, chapter 1, part 2, MCA, formalize the structure of the program, ensure consistent implementation, support the department's ability to respond to economic development needs across the state, and provide the public an opportunity to comment on the proposed rules.

Low-interest participation loans and forgivable loans in partnership with participating lenders are available to help eligible businesses access capital for expansion, relocation, equipment, and workforce-related activities. The availability of low-cost capital helps mitigate risk and attract private investment and drive additional private dollars into the economy especially in rural and underserved markets where access to capital can be limited. This public-private financing structure is necessary to catalyze local investment, support job creation, and strengthen long-term business viability in communities that often face economic barriers.

The capacity building grant complements this approach by investing in the capacity of economic development organizations across the state. These grants bolster the partnerships and technical assistance necessary to ensure project feasibility, long-term sustainability, and increased opportunities in rural economies. By strengthening the ability of economic

development organizations to deliver outreach, support loan applications, and connect businesses to resources, the program helps ensure that communities of all sizes are positioned to access and benefit from ORE funding.

The adoption of these rules is a requirement under the Big Sky Economic Development Program. The rules will enable the department to more effectively deploy funds, reduce administrative uncertainty for applicants and partners, and ensure the programs meet statutory intent under 90-1-202, MCA. The proposed guidelines can be found at https://business.mt.gov.

Rulemaking Actions

ADOPT

The rule proposed to be adopted is as follows:

NEW RULE 1 (8.99.919) INCORPORATION BY REFERENCE OF RULES FOR ADMINISTRATION OF THE OPPORTUNITIES IN RURAL ECONOMIES PROGRAM

(1) The department adopts and incorporates by reference the Opportunities in Rural Economies Loan Participation and Economic Development Organization Capacity Building Grant Program Guidelines, administered under the Big Sky Economic Development Program authorized by Title 90, chapter 1, part 2, MCA.

(2) The guidelines establish the framework for administration of the Opportunities in Rural Economies program, including applicant eligibility, allowable use of funds, the application process, evaluation and ranking criteria, and compliance and reporting requirements.

(3) As stated in the guidelines, the department will provide:

(a) low-interest participation loans in partnership with participating lenders;

(b) forgivable loans for qualifying projects that meet specified performance and compliance standards; and

(c) capacity building grants to enrolled economic development organizations to support implementation of loan participations and economic development activities.

(4) Copies of the guidelines may be obtained from the department's Business MT Division, 301 South Park Avenue, P.O. Box 200528, Helena, Montana 59620-0528, or on the department's web site at https://business.mt.gov.

Authorizing statute(s): 90-1-201, MCA

Implementing statute(s): 90-1-201, 90-1-202, 90-1-203, 90-1-204, MCA

Small Business Impact

The Opportunities in Rural Economies (ORE) Loan Participation and Economic Development Organization Capacity Building Grant Program offers significant economic development opportunities across Montana for small businesses, with a focus on rural areas. The ORE program facilitates job creation, business retention, and economic sustainability for small businesses in regions that often lack access to capital and development opportunities. There is not a specific class or group of small businesses that are eligible. For-profit or nonprofit or tribally owned businesses that are engaged in business activities within the state are eligible to apply as long as they provide a significant positive economic impact to the community, region, or state.

This rule outlines the types of funds available including low-interest and forgivable loans for expansion and workforce initiatives, promoting growth and reducing financial barriers. Concurrently, the capacity building grant strengthens the skills, resources, and abilities of economic development organizations, enhancing their ability to support small businesses and connect them with resources. It is difficult to determine the specific impact these grants and loans may have on small businesses across the state. Because there is no specific class or group of businesses that may be affected by this proposed rulemaking, no small business impact analysis is available.

Bill Sponsor Notification

The bill sponsor contact requirements do not apply.

Interested Persons

The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Written requests may be mailed or delivered to the contact person above or may be made by completing a request form at any rules hearing held by the department.

Rule Reviewer

Amy Barnes, Deputy Chief Legal Counsel

Approval

Mandy Rambo, Deputy Director

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DEPARTMENT OF COMMERCE

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-259.1

Summary

Amendment of ARM 8.94.3728 and 8.94.3732 pertaining to the Community Planning Grant Application Guidelines of the Community Development Block Grant Program

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Hearing Date and Time

Thursday, August 14, 2025, at 11:00 a.m.

Virtual Hearing Information

The Department of Commerce will hold a public hearing via zoom to consider the proposed amendment of the above-stated rules.

Video: https://mt-gov.zoom.us/webinar/register/WN_04DtZJUkRLCrzNIVMTZpZQ

Webinar ID: 848 9717 5454

Passcode: 055663

Comments

Interested persons may submit data, views, or arguments orally at the Zoom hearing. Written data, views, or arguments may be submitted to Jada Maynor by email: DOCadministrativerules@mt.gov; or by mail: P.O. Box 200501, Helena, MT 59620. Comments must be received by Friday, August 22, 2025, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Tuesday, August 12, 2025, at 5:00 p.m.

Contact

Jada Maynor
(406) 841-2596
jada.maynor@mt.gov

General Reasonable Necessity Statement

The Department of Commerce proposes to adopt by reference the updated Community Planning Grant Application Guidelines, Grant Administration, and Application (July 2025) for the Community Development Block Grant program and incorporate the document as rules of the department. The CDBG program is a U.S. Department of Housing and Urban Development pass-through grant program that provides funding to communities for planning, infrastructure, community and public facilities, and housing.

Updates to the document are intended to update HUD requirements, streamline processes, and simplify language. The updates include reducing excessive and repetitive required documentation and reformatting content. The proposed document can be found at https://commerce.mt.gov/Infrastructure-Planning/Programs-and-Services/Community-Development-Block-Grant/.

Rulemaking Actions

AMEND

The rules proposed to be amended are as follows, stricken matter interlined, new matter underlined:

8.94.3728 INCORPORATION BY REFERENCE OF RULES FOR THE ADMINISTRATION OF THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) – PLANNING GRANTS

(1) The Department of Commerce adopts and incorporates by reference the Community Development Block Grant Program Community Planning Grant Application Guidelines, Grant Administration, and Application (~~April 2022~~ June

2025) as rules for the administration of the Community Development Block Grant (CDBG) Program.

(2) The rules incorporated by reference in (1) relate to the scope and procedures for the award, administration, monitoring, and close-out of matching planning grants to cities, towns, counties, consolidated governments, county or multicounty water, wastewater or solid waste districts, and tribal governments.

(3) Copies of the regulations adopted by reference in (1) may be obtained from the Department of Commerce, 301 South Park Avenue, P.O. Box 200523, Helena, Montana 59620-0523, or on the web site at https://comdev.mt.gov/Programs-and-Boards/Community-Development-Block-Grant-Program/Planning-Activities.

Authorizing statute(s): 90-1-103, MCA

Implementing statute(s): 90-1-103, MCA

8.94.3732 SECOND CYCLE FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) – PLANNING GRANTS

(1) The Department of Commerce approves a second application cycle for both summer and fall ~~2019~~ 2025. The Department of Commerce will receive CDBG planning grant applications for the second cycle of fall ~~2019~~ 2025 until the deadline. The deadline for the first cycle is September 11, 2025, and the deadline to apply for the second cycle is November ~~5~~ 28, ~~2019~~ 2025.

(2) All CDBG planning grant applications must comply with the ~~2018-2019~~ July 2025 Application and Administrative Guidelines for Housing, Public Facilities and Economic Development Planning Grants as adopted in ARM 8.94.3728. Copies of the ~~2019-2020~~ July 2025 Application and Administrative Guidelines for Housing, Public Facilities and Economic Development Planning Grants may be obtained as provided in ARM 8.94.3728.

Authorizing statute(s): 90-1-103, MCA

Implementing statute(s): 90-1-103, MCA

Small Business Impact

The Community Development Block Grant Planning Grant program offers significant economic development opportunities across Montana. Cities, towns, and counties often contract with various consulting firms to complete different professional planning documents which are used to further community development in Montana.

Some consulting firms are considered small businesses and several planning documents produced over the years have benefitted small businesses with plans for expansions and ability to increase their workforce by creating and retaining jobs. The CDBG Planning Grant program's deliverables increases job creation and retention, assists with business retention, and create economic opportunities throughout Montana in both urban and rural areas.

Bill Sponsor Notification

The bill sponsor contact requirements do not apply.

Interested Persons

The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Written requests may be mailed or delivered to the contact person above or may be made by completing a request form at any rules hearing held by the department.

Rule Reviewer

April Armstrong

Approval

Mandy Rambo, Deputy Director

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BOARD OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS
DEPARTMENT OF LABOR AND INDUSTRY

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-123.1

Summary

Proposed rule changes from board actions and Senate Bill 227 (2025) - Red Tape Relief Initiative

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Hearing Date and Time

Monday, August 18, 2025, at 10:30 a.m.

Virtual Hearing Information

A public hearing will be held via remote conferencing to consider the proposed changes to the rules listed in this notice. There will be no in-person hearing. Interested parties may access the remote conferencing platform in the following ways:

Join Zoom Meeting: https://mt-gov.zoom.us/j/86596566555

Meeting ID: 865 9656 6555; Passcode: 115755

Dial by Telephone +1 646 558 8656

Meeting ID: 865 9656 6555; Passcode: 115755

Comments

Concerned persons may present their data, views, or arguments at the hearing. Written data, views, or arguments may also be submitted at dli.mt.gov/rules or P.O. Box 1728, Helena, Montana 59624. Comments must be received by Friday, August 22, 2025, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Monday, August 4, 2025, at 5:00 p.m.

Contact

Department of Labor and Industry
(406) 444-5466
laborlegal@mt.gov
Montana Relay: 711

General Reasonable Necessity Statement

In support of the Governor's Red Tape Relief Initiative, the Department of Labor and Industry (department) is conducting comprehensive reviews of the administrative rules of the professional licensing boards administratively attached to the department. This review focuses on updating rules to current standards and procedures, and eliminating unnecessary, redundant, and over burdensome regulations and those duplicated in statute. Other changes replace out-of-date terminology for current language and processes, and amend rules and catchphrases for accuracy, consistency, simplicity, better organization, streamlining, and ease of use for customers and staff.

The 2025 Montana Legislature enacted Senate Bill (SB) 227 (Chapter 372, Laws of 2025), an act eliminating individual board seals and removing redundancies and conflicting provisions among professional licensing board statutes. The bill will become effective October 1, 2025. It is reasonably necessary to repeal three rules to align with this legislation.

Following consideration of the department's suggestions, the board is amending and repealing several rules to align with the Red Tape Relief Initiative. The streamlined rules will increase department efficiencies by further standardizing procedures used among all licensing boards and programs. If an additional specific basis for a proposed action exists, the board will identify the reason immediately following the specific rule.

Rulemaking Actions

AMEND

The rules proposed to be amended are as follows, stricken matter interlined, new matter underlined:

24.183.303 DEFINITIONS

(1) "ABET" means the Accreditation Board of Engineering and Technology.

(2) "Advanced engineering subjects" means engineering class instruction of courses at the junior-class level and above within a board-approved curriculum.

(3) "Board-approved curricula" means:

(a) For engineering applicants, baccalaureate engineering or engineering technology programs accredited by ABET or equivalent curricula as approved by the board.

(b) For land surveying applicants, associate or baccalaureate land surveying programs accredited by ABET, or a minimum of 60 semester credits comprised of:

(i) at least six credits in English, seven credits in math, six credits in drafting, including three credits in survey drafting, ~~nine~~ six credits in basic science, five credits in humanities and social sciences or approved associate of applied science degree benchmarks; and

(ii) 12 credits in surveying techniques and 15 credits in principles and practice of land surveying courses taught by a licensed professional land surveyor.

(4) "Direct supervision" means regular and direct oversight and guidance of engineering or land surveying work, including plans, designs, surveys, and client advice at the time the work occurs, and licensee's acceptance of responsibility for the work.

(5) "Engineer-surveyor" means an individual licensed in Montana as both a professional engineer and professional land surveyor, with a license designation as "ES."

(6) "Land surveying subjects" means surveying class instruction of courses that cover the principles and practices of land surveying and surveying techniques, excluding those courses that involve construction surveying, route surveying, or photogrammetry.

(7) "NCEES" means the National Council of Examiners for Engineering and Surveying.

(8) "Preprofessional experience" means engineering experience obtained after completion of a baccalaureate degree, which must be obtained under the supervision of a licensed professional engineer or professional land surveyor or be approved by the board and may include one or more of the following:

(a) experience on engineering projects which indicates progressive quality and increasing responsibilities over time;

(b) experience teaching advanced undergraduate or post-graduate courses offered as part of a board-approved curriculum; or

(c) experience obtained in engineering research or design projects by faculty teaching a board-approved curriculum.

(9) "Principles and practices of land surveying courses" means instruction in the application of surveying techniques and legal principles to analyze and resolve practical surveying problems.

(10) "Professional experience" means experience obtained after initial licensure by a state, territory, or possession of the United States, the U.S. District of Columbia, or any foreign country.

(11) "Progressive land survey experience" means experience obtained under the supervision of a licensed professional land surveyor, on land surveying projects, which, over time, are of increasing quality and require greater responsibility, and which must include experience with the Public Land Survey System (PLSS) and Bureau of Land Management Manual of Survey Instructions, and may include one or more of the following:

(a) experience with aliquot part subdivision of sections, retracing existing boundaries, establishing new boundaries, corner search and reestablishment, research existing public records, survey computations, preparation of legal descriptions, certificates of survey, subdivision plats, corner recordation forms, exhibits, and other documents pertinent to such work; or

(b) experience teaching advanced undergraduate or post-graduate land survey courses offered as part of a board-approved curriculum.

(12) "Resident" means a person possessing an active professional engineer or registered professional license or land surveyor license issued by the board.

(13) "Signature" means:

(a) licensee's or applicant's original manual signature; or

(b) licensee's or applicant's digital equivalent.

(14) "Subprofessional experience" means supervised engineering or construction experience obtained prior to completion of a baccalaureate degree, and which must occur after an applicant has commenced a college-level education.

(15) "Surveying techniques courses" means instruction in basic field methodology, measurement, data collection, and calculations.

Authorizing statute(s): 37-67-202, MCA

Implementing statute(s): 37-67-101, 37-67-103, 37-67-314, 37-67-322, 37-67-323, 37-67-324, 37-67-325, 37-67-326, 37-67-328, MCA

Reasonable Necessity Statement

It is reasonably necessary to amend the board-approved curricula for land surveying applicants at (3)(b) and (b)(i) to align with the sunset of the statutory "experience only" licensure option. Effective October 1, 2022, this licensure pathway at 37-67-325(1)(d) and 37-67-326(1)(d), MCA, ended and is no longer available. The board concluded it is necessary to standardize qualifying land surveying education since every applicant needs an education credential to apply for a land surveyor intern or professional land surveyor license. The board is expanding qualifying education to include ABET-accredited land surveyor programs to promote mobility. The application process may be shortened for applicants if they are no longer required to list and describe all classes in their educational programs.

24.183.509 EXAMINATION PROCEDURES

(1) The required examinations ~~required~~ are ~~defined~~ set forth in 37-67-327, MCA.

(2) Applicants for the Fundamentals of Engineering ~~exam~~ and Fundamentals of Land Surveying examinations may register directly with NCEES without prior board approval ~~of the board~~.

(3) Applicants for the ~~Fundamentals of Land Surveying,~~ Principles and Practice~~s~~ of Engineering~~,~~ and Principles and Practice~~s~~ of Land Surveying ~~exams~~ examinations must be approved by the board prior to registering with NCEES to take the examination.

(4) ~~An applicant who wishes to~~ To reschedule ~~an exam~~ any examination other than the Fundamentals of Engineering~~,~~ or Fundamentals of Land Surveying ~~exam shall~~ examination, applicants must pay ~~an exam reschedule~~ the rescheduling fee ~~specified by~~ in ARM 24.183.404.

(5) A candidate failing to pass any ~~exam,~~ examination other than the Fundamentals of Engineering or Fundamentals of Land Surveying ~~exam,~~ examination may re-take the examination upon payment of the reexamination fee ~~specified by~~ in ARM 24.183.404.

(6) The minimum passing score for the Montana state-specific land surveyor ~~exam shall be~~ examination is 70 percent.

(7) An examinee who fails the Montana state-specific land surveyor exam may~~:~~

~~(a)~~ request a diagnostic report on the exam results within 60 days after the date of notification of the failure~~; and~~ .

~~(b) re-take the exam as many as two times within two years of the date on which the applicant is approved to take the exam.~~

~~(8) An applicant who fails the Montana state-specific land surveyor examination three times or whose application expires may reapply two years after the third failure or the application expiration date. Staff may approve the new application.~~

Authorizing statute(s): 37-1-131, 37-67-202, MCA

Implementing statute(s): 37-1-131, 37-67-327, MCA

Reasonable Necessity Statement

The board is amending this rule to make Montana's examination and application processes more consistent and open across the board's license types by treating access to the Fundamentals of Land Surveying examination in the same manner as the Fundamentals of Engineering examination.

The board is amending (7) and striking (8) to lessen restrictions on access to the state-specific examination and reduce both applicant wait time and staff workload. The board concluded that there is no need to limit the number of examination attempts since successful passage is required for licensure.

24.183.801 COMITY FOR PROFESSIONAL LAND SURVEYORS

(1) The board may issue a professional land surveyor license by comity to any person who submits verification of licensure from any state, territory, or possession of the United States, or any foreign country, and meets the application requirements of this rule. Applicants ~~shall~~ must submit a department-approved application form, fee, a completed land surveyors laws and rules questionnaire, and:

(a) educational transcripts~~, when applicable~~;

(b) five completed reference forms which meet the requirements of ARM 24.183.503;

(c) verification of licensure from all states in which the applicant has ever been licensed;

(d) verification of having passed the Fundamentals of Land Surveying examination;

(e) verification of having passed the Principles and Practice~~s~~ of Land Surveying examination; and

(f) exhibits as required by ARM 24.183.505.

(2) Applicants with a current NCEES record may arrange for NCEES to deliver their current record directly to the board office.

(3) Upon approval of the application by the board, the comity applicants ~~shall~~ must pass a ~~closed book,~~ state-specific~~,~~ land surveying examination.

(4) Professional experience claimed by an applicant to meet the provisions of 37-67-313, MCA, regarding a prelicensure deficiency of experience does not have to occur under the supervision of a professional land surveyor.

Authorizing statute(s): 37-1-131, 37-67-202, MCA

Implementing statute(s): 37-1-304, 37-67-313, MCA

Reasonable Necessity Statement

It is reasonably necessary to amend (1)(a) because all licensure pathways now require education and the language adds nothing meaningful.

The board is amending (3) following a review of the state-specific land surveyor examination's content and concluding that the examination's material can be adequately assessed through an open-book format.

24.183.1104 UNIFORM STANDARDS FOR CERTIFICATES OF SURVEY

(1) A certificate of survey must comply with the following requirements:

(a) A certificate of survey must be legibly drawn with permanent black ink or printed or reproduced by a process guaranteeing a permanent record and must be 18 inches by 24 inches or 24 inches by 36 inches. Margins must be a minimum 1/2-inch on all sides, or as required by the filing office.

(b) One original on three mil or heavier matte stable-base polyester film or equivalent and/or one original on 24# white bond paper or equivalent must be submitted, or on such medium as required by the filing office.

(c) If more than one sheet must be used to adequately depict the land surveyed, each sheet must show the number of that sheet and the total number of sheets included. All certifications must be placed on sheet number one of the certificate of survey.

(d) A certificate of survey must show or contain the following information:

(i) a title or title block including the quarter-section, section, township, range, principal meridian, county, and if applicable, city or town in which the surveyed land is located. Except as provided in (1)(f)(v), a certificate of survey must not contain the title "plat," "subdivision," or any title other than "Certificate of Survey";

(ii) the name(s) of the person(s) who commissioned the survey, the name(s) of the owner(s) of the land surveyed, if other than the person(s) commissioning the survey, the names of any adjoining plats, and the numbers of any adjoining certificates of survey previously filed;

(iii) the date the survey was completed and a brief explanation of why the certificate of survey was prepared, such as to create a new parcel, retrace a section line, or retrace an existing parcel of land;

(iv) a north arrow;

(v) a scale bar. The scale of the certificate of survey must be sufficient to legibly represent the required information and data on the certificate of survey;

(vi) the location of, and other information relating to all monuments found, set, reset, replaced, or removed as required by ARM 24.183.1101;

(A) If additional monuments are to be set after the certificate of survey is filed, the location of these monuments must be shown by a distinct symbol, and the certificate of survey must contain a certification by the land surveyor as to the reason the monuments have not been set and the date by which they will be set, as required by ARM 24.183.1101(1)(d).

(B) All monuments found during the survey that influenced the position of any corner or boundary indicated on the certificate of survey must be clearly shown as required by ARM 24.183.1101(1)(c).

(C) Witness and reference monuments must be clearly shown.

(vii) the location of any section corner or corners of divisions of sections the land surveyor deems to be pertinent to the survey or was used as a control in the survey;

(viii) basis of bearing. For purposes of this rule, the term "basis of bearing" means the land surveyor's statement as to the origin of the bearings shown on the certificate of survey. If the basis of bearing(s) refers to two previously monumented points in a previously filed survey document, then the two previously monumented points must be shown and described on the certificate of survey, the line marked by the two

previously monumented points must be labeled "basis of bearing," and the previously filed survey document name or number must be cited in the land surveyor's statement as to the origin of the bearing(s). If the certificate of survey shows true bearings, the basis of bearing must describe the method by which these true bearings were determined;

(ix) the bearings, distances, and curve data of all boundary lines and all control or pertinent lines used to determine the boundaries of the parcel(s) surveyed. If the parcel surveyed is bounded by an irregular shoreline or a body of water that is a riparian boundary, the bearings and distances of a meander traverse generally paralleling the riparian boundary must be given;

(A) The courses along a meander line are shown solely to provide a basis for calculating the area of a parcel that has one or more riparian boundaries as the parcel existed at the time of survey.

(B) For purposes of this rule, a line that indicates a fixed boundary of a parcel is not a "meander" or "meander line" and may not be designated as one.

(C) If a boundary, control, or pertinent line contains multiple segments of the whole, then the overall distance must be shown, and each segment must at least include distance.

(x) data on all curves sufficient to enable the reestablishment of the curves on the ground. For circular curves, the data must at least include radius and arc length, and either delta angle, radial bearings, or chord bearing and distance. All non-tangent points of intersection on the curve must show either the bearings of radial lines or chord length and bearing. Non-tangent curves must be so labeled;

(xi) lengths of all lines shown to at least tenths of a foot, and all angles and bearings shown to at least the nearest minute. Distance measurements must be stated in English units, but their metric equivalents, shown to the nearest hundredth of a meter, may be noted parenthetically. If grid distances are shown, then ground distances must be shown parenthetically;

(xii) at least one record measurement reference for each line and curve, if available, must be shown;

(xiii) a narrative legal description of the parcel(s) surveyed.

(A) The land surveyor, at his or her discretion, may choose the form of the narrative legal description as follows:

(I) If the parcel surveyed is either an aliquot part of a U.S. government section or a U.S. government lot, the narrative legal description may be the aliquot part or the government lot description of the parcel;

(II) If the certificate of survey depicts the division of one or more parcels shown on a previously filed certificate of survey, the narrative legal description may be the number of the previously filed certificate of survey and the parcel number of the parcel(s) previously surveyed;

(III) If the certificate of survey depicts the retracement of one or more parcels shown on a previously filed certificate of survey, plat, or amended plat, the narrative legal description may be the number of the previously filed certificate of survey or the name of the previously filed plat or amended plat, and the parcel number of the parcel(s) previously surveyed;

(IV) If the survey creates or retraces one or more parcels, the narrative legal description may be either the metes-and-bounds description of each individual parcel created by the survey or the metes-and-bounds description of the perimeter boundary of the parcels surveyed; or

(V) If the narrative legal description does not fall within (1)(d)(xiii)(A)(I), (II), or (III), then the narrative legal description required by this subsection must conform with (1)(d)(xiii)(A)(IV).

(B) When the narrative legal description is metes-and-bounds, the point of beginning, which is also the point of closure of the legal description of the parcel surveyed, must be labeled "Point of Beginning." Alternatively, the point of beginning may be labeled "POB" if the abbreviation is defined on the certificate of survey.

(C) The requirement of this rule does not apply to certificates of survey that depict a partial retracement of the boundaries of an existing parcel or establish the location of lines or corners that control the location of an existing parcel.

(xiv) all parcels created or retraced by the certificate of survey designated by number or letter, and the bearings, distances, curve data, and area of each parcel, except as provided in (1)(f)(iii). If a parcel created by the certificate of survey is identifiable as a 1/32 or larger aliquot part of a U.S. government section or as a U.S. government lot, it may be

designated by number or letter or by its aliquot part or government lot identification;

(xv) the location, bearings, distances, and curve data of any easement that will be created by reference to the certificate of survey;

(xvi) the dated signature and the seal of the land surveyor responsible for the survey. The land surveyor's signature certifies that the certificate of survey has been prepared in conformance with the applicable sections of the Montana Subdivision and Platting Act and the regulations adopted under the Act;

(xvii) a memorandum of any oaths administered under 76-3-405, MCA;

(xviii) if applicable, the certificate of the examining land surveyor; and

(xix) space for the clerk and recorder's filing information.

(e) Certificates of survey that do not represent a division or aggregation of land, such as those depicting the retracement of an existing parcel and those prepared for informational purposes, must contain a statement as to their purpose and must meet applicable requirements of this rule for form and content. If the purpose of a certificate of survey is stated as a retracement or partial retracement, and if multiple tracts of record contained within the parcel's perimeter boundary on the certificate of survey are not individually shown, then the certificate of survey does not expunge the tracts of record unless it conforms to (1)(f)(iv) and contains the acknowledged certificate of the property owner(s) citing the applicable exemption in its entirety.

(f) Procedures for divisions of land exempted from review as subdivisions. If one or more parcels on a certificate of survey is created by an exemption from subdivision review under 76-3-207, MCA, then, except as provided in (1)(f)(iii) and (iv), the certificate of survey must establish the boundaries of the exemption parcel(s). The certificate of survey is not required to establish, but may establish, the exterior boundaries of the remaining portion of the parent tract of land. However, the certificate of survey must show portions of the existing unchanged boundaries sufficient to identify the location and extent of the exemption parcel to be created. Unsurveyed portions of the parent tract of land must be labeled, "NOT A PART OF THIS CERTIFICATE OF SURVEY" or "NOT INCLUDED IN THIS CERTIFICATE OF SURVEY". The certificate of survey must contain the acknowledged certificate of the property owner stating that the division of land is exempt from review as a subdivision and cite the applicable exemption in its entirety. The certificate of survey must meet the following requirements:

(i) If the exemption relied upon requires that the property owner enter into a covenant running with the land, the certificate of survey may not

be filed unless it shows or contains a signed and acknowledged recitation of the covenant in its entirety.

(ii) If a certificate of survey invokes the exemption for gift(s) or sale(s) to members of the landowner's immediate family, the certificate of survey must indicate the name of the proposed grantee, the relationship of the grantee to the landowner, and the parcel to be conveyed to the grantee.

(iii) If a certificate of survey invokes the exemption for the relocation of common boundary line(s):

(A) The certificate of survey must contain the signatures of all landowners whose tracts of record will be altered by the proposed relocation. The certificate of survey must show that the exemption was used only to change the location of a boundary line or lines common to two or more tracts of record, and must clearly distinguish the prior boundary location or locations (shown, for example, by dashed or broken line(s) with a notation) from the new boundary location or locations (shown, for example, by solid line(s) with a notation);

(B) The certificate of survey must show the boundaries of the area that is being removed from one tract of record and joined with another tract of record. The certificate of survey is not required to establish, but may establish, the exterior boundaries of the resulting tracts of record. However, the certificate of survey must show portions of the existing unchanged boundaries sufficient to clearly identify both the location and the extent of the boundary relocation. Unsurveyed portions of the tracts of record must be labeled, "NOT A PART OF THIS CERTIFICATE OF SURVEY" or "NOT INCLUDED IN THIS CERTIFICATE OF SURVEY"; and

(C) The certificate of survey must contain the following notation: "The area that is being removed from one tract of record and joined with another tract of record is not itself a tract of record. Said area shall not be available as a reference legal description in any subsequent real property transfer after the initial transfer associated with the [certificate of survey or amended plat] on which said area is described, unless said area is included with or excluded from adjoining tracts of record."

(iv) If a certificate of survey invokes the exemption for aggregation of parcels or lots:

(A) The certificate of survey must contain the signatures of all landowners whose tracts of record will be altered by the

proposed aggregation. The certificate of survey must show that the exemption was used only to eliminate a boundary line or lines common to two or more tracts of record, and must clearly distinguish the prior boundary location or locations (shown, for example, by dashed or broken line(s) with a notation) from the new perimeter boundary location or locations (shown, for example, by solid line(s) with a notation); and

(B) The certificate of survey must establish the perimeter boundary of the resulting tract(s) of record.

(v) A survey document that modifies lots on a filed plat and invokes an exemption from subdivision review under 76-3-201 or 76-3-207~~(1)(d), (e), or (f)~~, MCA, must be entitled "amended plat of [lot, block, and name of subdivision being amended]," but for all other purposes must comply with the requirements for form and descriptive content of certificates of survey contained in this rule.

(vi) If the certificate of survey invokes an exemption from subdivision review under 76-3-207, MCA, the certificate of survey must contain or be accompanied by a certification by the county treasurer that all real property taxes and special assessments assessed and levied on the surveyed land have been paid.

(vii) For purposes of this rule, when the parcel of land for which an exemption from subdivision review is claimed is being conveyed under a contract-for-deed, the terms "property owner," "landowner," and "owner" mean the seller of the land under the contract-for-deed.

(g) The land surveyor, at his or her discretion, may provide additional information on the certificate of survey regarding the survey.

(h) Procedures for filing certificates of survey of divisions of land entirely exempted from the requirements of the Montana Subdivision and Platting Act. The divisions of land described in 76-3-201, 76-3-205, and 76-3-209, MCA, and divisions of federally owned land made by a U.S. government agency are not required to be surveyed, nor must a certificate of survey or plat showing these divisions be filed with the clerk and recorder. However, a certificate of survey of one of these divisions may be filed with the clerk and recorder if the certificate of survey meets the requirements for form and content for certificates of survey contained in this rule, and contains a certificate of all the landowners citing the applicable exemption from the Act in its entirety, or when applicable, that the land surveyed is owned by the federal government. The certificate of survey must establish the boundaries of the exemption parcel(s). The certificate of survey is not required to establish, but may establish, the exterior boundaries of the remaining portion

of the parent tract of land. However, the certificate of survey must show portions of the existing unchanged boundaries sufficient to identify the location and extent of the exemption parcel to be created. Unsurveyed portions of the parent tract of land must be labeled, "NOT A PART OF THIS CERTIFICATE OF SURVEY" or "NOT INCLUDED IN THIS CERTIFICATE OF SURVEY."

Authorizing statute(s): 37-67-202, 76-3-403, 76-3-411, MCA

Implementing statute(s): 37-67-314, 76-3-101, 76-3-102, 76-3-103, 76-3-104, 76-3-105, 76-3-201, 76-3-203, 76-3-205, 76-3-206, 76-3-207, 76-3-209, 76-3-301, 76-3-302, 76-3-303, 76-3-304, 76-3-305, 76-3-306, 76-3-307, 76-3-401, 76-3-402, 76-3-403, 76-3-404, 76-3-405, 76-3-406, 76-3-411, MCA

Reasonable Necessity Statement

It is reasonably necessary to amend (1)(f)(v) by striking the specific subsections of the referenced statute. In 2023, 76-3-207, MCA, was amended by the addition of several subsections. Instead of adding more subsections and having to do this whenever the statute is amended, the board is removing all subsections to reference the entire statute.

24.183.1107 UNIFORM STANDARDS FOR FINAL SUBDIVISION PLATS

(1) A final subdivision plat must comply with the following requirements:

(a) the plat complies with the requirements contained in (2);

(b) the plat includes a Conditions of Approval sheet(s) that complies with the requirements contained in (4); and

(c) the plat is accompanied by documents listed in (5).

(2) A plat must comply with the following requirements:

(a) A plat must be legibly drawn with permanent black ink or printed or reproduced by a process guaranteeing a permanent record and must be 18 inches by 24 inches or 24 inches by 36 inches. Margins must be a minimum 1/2-inch on all sides, or as required by the filing office.

(b) One original on three mil or heavier matte stable-base polyester film or equivalent and/or one original on 24# white bond paper or equivalent must be submitted, or on such medium as required by the filing office.

(c) If more than one sheet must be used to adequately depict the land surveyed, each sheet must show the number of that sheet and the total number of sheets included. Except as provided in (4)(b), all certifications must be placed on sheet number one of the plat.

(d) A survey document that results in an increase in the number of lots or modifies six or more lots on a filed plat must be entitled "amended plat of (lot, block, and name of subdivision being amended)," and unless it is exempt from subdivision review by 76-3-201 or 76-3-207~~(1)(d), (e), or (f)~~, MCA, must meet the filing requirements for final subdivision plats specified in this rule.

(e) A plat must show or contain the following information:

(i) a title or title block including the quarter-section, section, township, range, principal meridian, county, and if applicable, city or town in which the subdivision is located. The title of the plat must contain the words "plat" and either "subdivision" or "addition";

(ii) the name(s) of the person(s) who commissioned the survey, the name(s) of the owner(s) of the land to be subdivided, if other than the person(s) commissioning the survey, the names of any adjoining plats, and the numbers of any adjoining certificates of survey previously filed;

(iii) a north arrow;

(iv) a scale bar. The scale of the plat must be sufficient to legibly represent the required information and data on the plat;

(v) the location of, and other information relating to all monuments found, set, reset, replaced, or removed as required by ARM 24.183.1101;

(A) If additional monuments are to be set after the plat is filed, the location of these monuments must be shown by a distinct symbol, and the plat must contain a certification by the land surveyor as to the reason the monuments have not been set and the date by which they will be set, as required by ARM 24.183.1101(1)(d).

(B) All monuments found during the survey that influenced the position of any corner or boundary indicated on the plat must be clearly shown as required by ARM 24.183.1101(1)(c).

(C) Witness and reference monuments must be clearly shown.

(vi) the location of any section corner or corners of divisions of sections the land surveyor deems to be pertinent to the survey or was used as control in the survey;

(vii) basis of bearing. For purposes of this rule, the term "basis of bearing" means the land surveyor's statement as to the origin of the bearings

shown on the plat. If the basis of bearing(s) refers to two previously monumented points in a previously filed survey document, then the two previously monumented points must be shown and described on the plat, the line marked by the two previously monumented points must be labeled "basis of bearing," and the previously filed survey document name or number must be cited in the land surveyor's statement as to the origin of the bearing(s). If the plat shows true bearings, the basis of bearing must describe the method by which these true bearings were determined;

(viii) the bearings, distances, and curve data of all boundary lines and all control or pertinent lines used to determine the boundaries of the subdivision. If the subdivision is bounded by an irregular shoreline or a body of water that is a riparian boundary, the bearings and distances of a meander traverse generally paralleling the riparian boundary must be given;

(A) The courses along a meander line are shown solely to provide a basis for calculating the area of a parcel that has one or more riparian boundaries as the parcel existed at the time of survey.

(B) For purposes of this rule, a line that indicates a fixed boundary of a parcel is not a "meander" or "meander line" and may not be designated as one.

(C) If a boundary, control, or pertinent line contains multiple segments of the whole, then the overall distance must be shown, and each segment must at least include distance.

(ix) data on all curves sufficient to enable the reestablishment of the curves on the ground. For circular curves, the data must at least include radius and arc length, and either delta angle, radial bearings, or chord bearing and distance. All non-tangent points of intersection on the curve must show either the bearings of radial lines or chord length and bearing. Non-tangent curves must be so labeled;

(x) lengths of all lines shown to at least tenths of a foot, and all angles and bearings shown to at least the nearest minute. Distance measurements must be stated in English units, but their metric equivalents, shown to the nearest hundredth of a meter, may be noted parenthetically. If grid distances are shown, then ground distances must be shown parenthetically;

(xi) at least one record measurement reference for each line and curve, if available, must be shown;

(xii) all lots and blocks in the subdivision designated by number, the bearings, distances, and curve data of each lot and block, the area of each lot, and the total area of all lots. (Excepted lands must be labeled "NOT INCLUDED IN THIS SUBDIVISION" or "NOT INCLUDED IN THIS PLAT";

(xiii) all existing rights-of-way for streets, alleys, avenues, roads, and highways that adjoin or are within the boundaries of the subdivision; their names and widths from public record (if ascertainable); the bearings, distances, and curve data of their adjoining boundaries. If the existing right(s)-of-way is contained within the boundaries of the subdivision, then the area of the portion of the right(s)-of-way within the subdivision shall be shown;

(xiv) all rights-of-way for streets, alleys, avenues, roads, and highways that will be created by the filing of the plat; their names, widths, bearings, distances, curve data, and area;

(xv) except as provided in (2)(e)(xiii) and (xiv), the location, bearings, distances, curve data, and areas of all parks, common areas, and other grounds dedicated for public use;

(xvi) the total area of the subdivision;

(xvii) a narrative legal description of the subdivision.

(A) The land surveyor, at his or her discretion, may choose the form of the narrative legal description as follows:

(I) If the land to be subdivided is either an aliquot part of a U.S. government section or a U.S. government lot, the narrative legal description may be the aliquot part or the government lot description of the land;

(II) If the plat depicts the division of one or more parcels shown on a previously filed certificate of survey or plat, the narrative legal description may be the number of the previously filed certificate of survey or name of the previously filed plat and the parcel number of the parcel(s) previously surveyed;

(III) The narrative legal description may be the metes-and-bounds description of the perimeter boundary of the subdivision; or

(IV) If the narrative legal description does not fall within (2)(e)(xvii)(A)(I) or (II), the narrative legal description

required by this subsection is the metes-and-bounds description of the perimeter boundary of the subdivision.

(B) When the narrative legal description is metes-and-bounds, the point of beginning, which is also the point of closure of the legal description of the subdivision surveyed, must be labeled "Point of Beginning." Alternatively, the point of beginning may be labeled "POB" if the abbreviation is defined on the plat.

(xviii) the dated signature and the seal of the land surveyor responsible for the survey. The land surveyor's signature certifies that the plat has been prepared in conformance with the applicable sections of the Montana Subdivision and Platting Act and the regulations adopted under the Act. The land surveyor's signature and certification do not include certification of the Conditions of Approval sheet(s);

(xix) a memorandum of any oaths administered under 76-3-405, MCA;

(xx) the dated, signed, and acknowledged consent to the subdivision of the owner of the land to be subdivided. For purposes of this rule, when the parcel of land proposed for subdivision is being conveyed under a contract-for-deed, the terms "property owner," "landowner," and "owner" mean the seller of the land under the contract-for-deed;

(xxi) certification by the governing body that the final plat is approved;

(xxii) if applicable, the landowner's certificate of dedication of streets, alleys, avenues, roads, highways, parks, playground easements, or other public improvements;

(xxiii) if applicable, or as required by subdivision regulations, the landowner(s)' certification statement(s) as follows:

(A) A statement that federal, state, and local plans, policies, regulations, and/or conditions of subdivision approval that may limit the use of the property, including the location, size, and use are shown on the Conditions of Approval sheet or as otherwise stated.

(B) A statement that buyers of property should ensure that they have obtained and reviewed all sheets of the plat and all documents recorded and filed in conjunction with the plat and that buyers of property are strongly encouraged to contact the local planning department and become informed of any limitations on the use of the property prior to closing.

(C) A statement that all or part of the required public improvements have been installed and/or security requirements pursuant to 76-

3-507, MCA, secure the future construction of any remaining public improvements to be installed.

(xxiv) if applicable, a certificate of the governing body accepting any dedicated land, easements, or improvements;

(xxv) if applicable, the certificate of the examining land surveyor;

(xxvi) space for the clerk and recorder's filing information; and

(xxvii) a minimum two-inch by four-inch blank space below the clerk and recorder's filing information for the recording numbers of the documents listed in (5).

(f) The land surveyor, at his or her discretion, may provide additional information on the plat regarding the survey.

(3) The following certifications of final plat approval must appear on the plat or on the Conditions of Approval sheet as contained in (4), or recorded or filed as contained in (5) of these rules:

(a) A certification by the county treasurer that all real property taxes and special assessments assessed and levied on the land to be subdivided have been paid and, if applicable, certification of the local health officer having jurisdiction.

(4) If applicable, a sheet(s) of the plat prepared by the landowner(s) or their representative(s) depicting conformance with subdivision application approval shall be entitled "Conditions of Approval of [insert name of subdivision]" with a title block including the quarter-section, section, township, range, principal meridian, county, and, if applicable, city or town in which the subdivision is located, and shall contain:

(a) any text and/or graphic representations of requirements by the governing body for final plat approval including, but not limited to, setbacks from streams or riparian areas, floodplain boundaries, no-build areas, building envelopes, or the use of particular parcels;

(b) a certification statement by the landowner that the text and/or graphics shown on the Conditions of Approval sheet(s) represent(s) requirements by the governing body for final plat approval and that all conditions of subdivision application have been satisfied; and

(c) a notation stating that the information shown is current as of the date of the certification required in (4)(b), and that changes to any land-use restrictions or encumbrances may be made by amendments to covenants, zoning regulations, easements, or other documents as allowed by law or by local regulations.

(5) If applicable, the following documents as specified by local government shall accompany the approved final plat and shall be recorded or filed with the plat as specified by the clerk and recorder, and the recording or filing number(s) for each document may be written on the plat by the clerk and recorder:

(a) a title report or certificate of a title abstractor showing the names of the owners of record of the land to be subdivided, and the names of any lien holders or claimants of record against the land, and the written consent to the subdivision by the owners of the land if other than the subdivider, and any lien holders or claimants of record against the land;

(b) any covenants or deed restrictions relating to the subdivision;

(c) for lots less than 20 acres in size, exclusive of public roadways, a certification from the Montana Department of Environmental Quality stating that it has approved the plans and specifications for water supply and sanitary facilities pursuant to 76-4-104(2), MCA;

(d) if required by the governing body, for lots of 20 acres or greater in size, written documentation that the subdivider has demonstrated that there is an adequate water source and at least one area for a septic system and replacement drainfield for each lot in accordance with 76-3-604(8)(b), MCA;

(e) a copy of any security requirements, pursuant to 76-3-507, MCA, securing the future construction of any remaining public improvements to be installed;

(f) unless otherwise provided in local subdivision regulations, copies of final plans, profiles, grades, and specifications for improvements, including a complete grading and drainage plan, with the certification of a professional engineer that all required improvements which have been installed are in conformance with the attached plans. Local subdivision regulations may authorize the subdivider, under conditions satisfactory to the governing body, to prepare these plans and specifications after the final plat has been filed, or file them with a government official other than the clerk and recorder, or both. If the approved plans and specifications are or will be filed with a government official other than the clerk and recorder, then a document or a statement on the Conditions of Approval sheet that states where the plans can be obtained must be filed or recorded;

(g) if a street, alley, avenue, road, or highway created by the plat will intersect with a state or federal right-of-way, a copy of the access or encroachment permit; and

(h) any other documents satisfying subdivision application approval required by the governing body to be filed or recorded.

Authorizing statute(s): 37-67-202, 76-3-403, 76-3-411, MCA

Implementing statute(s): 37-67-314, 76-3-101, 76-3-102, 76-3-103, 76-3-104, 76-3-105, 76-3-201, 76-3-203, 76-3-205, 76-3-206, 76-3-207, 76-3-209, 76-3-301, 76-3-302, 76-3-303, 76-3-304, 76-3-305, 76-3-306, 76-3-307, 76-3-401, 76-3-402, 76-3-403, 76-3-404, 76-3-405, 76-3-406, 76-3-411, MCA

Reasonable Necessity Statement

It is reasonably necessary to amend (2)(d) by striking the specific subsections of the referenced statute. In 2023, 76-3-207, MCA, was amended by the addition of several subsections. Instead of adding more subsections and having to do this whenever the statute is amended, the board is removing all subsections to reference the entire statute.

24.183.2102 INACTIVE LICENSURE ~~STATUS AND CONVERSION FROM INACTIVE TO ACTIVE STATUS~~

(1) ~~A licensee~~ Licensees not engaged in licensed activities may request to place ~~the license~~ their licenses on inactive status. ~~by either indicating on the renewal form that inactive status is desired, or by informing the board office, in writing, that an inactive status is desired. It is the sole responsibility of the inactive licensee to keep the board informed as to any change of address during the period of time the license remains on inactive status. Inactive licensees must pay the renewal fee biennially to maintain license status.~~

~~(2) A licensee may not practice any professional engineering or professional land surveying work in the state of Montana while the license is on inactive status.~~

(2) While inactive, licensees must inform the board of any change in the licensee's residency or mailing address.

(3) To avoid lapse, expiration, or termination, an inactive license must be renewed each renewal period.

(4) Licensees do not need to obtain continuing education until converting to active status.

~~(3)~~(5) ~~Upon application and payment of the appropriate fee, the board may convert an inactive status license to active status if the applicant completes each of the following~~ For an inactive licensee to become active, the licensee must:

(a) ~~signifies to the board, in writing, that upon issuance of the active license, the applicant intends to be an active practitioner in Montana~~ request to move to an active status via a board-approved form; and

(b) ~~presents satisfactory evidence that the applicant has attended~~ demonstrate completion of 30 hours of continuing education which comply with the continuing education rules ~~of the board~~ in the two years immediately preceding the request for reactivation.

~~(4)~~(6) In the event an inactive licensee does not maintain a current license in any jurisdiction for the three previous years prior to requesting conversion to active status, the board may require the applicant to take and pass the principles and practice of engineering (PE) examination or the principles and practice of land surveying (PLS) examination.

Authorizing statute(s): 37-1-319, MCA

Implementing statute(s): 37-1-319, MCA

Reasonable Necessity Statement

The board is amending this rule to simplify and standardize language, align with current procedures, and allow further utilization of electronic submission and processes by not specifying "written" forms. It is reasonably necessary to clarify that no continuing education is required during periods of inactive status to avoid confusion.

The board is removing the requirement for a statement of intent to actively practice in Montana when shifting from inactive to active license status. While current active licensure is required to practice in the state, the board has no ability to require or enforce this kind of intent.

REPEAL

The rules proposed to be repealed are as follows:

24.183.401 BOARD ELECTED OFFICERS

Authorizing statute(s): 37-67-202, MCA

Implementing statute(s): 37-67-201, MCA

Reasonable Necessity Statement

The board is repealing this rule, ARM 24.183.402, and 24.183.403 as unnecessary and to align with the repeal of the implemented statute, 37-67-201, MCA, by SB 227. Further, statutory

provisions at 37-1-124, MCA, adequately address the obligations and duties of the board's presiding officer and additional elected officers, as well as board meetings.

24.183.402 BOARD MEETINGS

Authorizing statute(s): 37-67-202, MCA

Implementing statute(s): 37-67-201, MCA

24.183.403 BOARD SEAL

Authorizing statute(s): 37-67-202, MCA

Implementing statute(s): 37-67-201, MCA

24.183.506 EQUIVALENCY OF MILITARY EDUCATION, TRAINING, AND EXPERIENCE

Authorizing statute(s): 37-1-145, MCA

Implementing statute(s): 37-1-145, MCA

Reasonable Necessity Statement

It is reasonably necessary to repeal this rule to align with amendments to 37-1-145, MCA, by House Bill 583 in 2023. The amended statute provides for all boards and programs to accept relevant military education, training, or service toward license qualifications. Specific board or program rules are no longer needed.

24.183.2401 SCREENING PANEL

Authorizing statute(s): 37-67-202, MCA

Implementing statute(s): 37-1-307, MCA

Reasonable Necessity Statement

At times, the number of appointed board members or board members' ability to attend can drive scheduling of screening panels. Members of board panels are always established and replaced, when necessary, by the board presiding officer. It is not necessary to state the

composition of a screening panel in rule and doing so may actually limit the ability of the presiding officer to hold a screening meeting. The process of naming or replacing screening panel members will remain consistent following repeal of this unnecessary rule.

Small Business Impact

Pursuant to 2-4-111, MCA, the Montana small businesses that will probably be affected by the proposed rule changes are small businesses that intend to employ licensed professional land surveyors and assist land surveyor applicants in obtaining Montana licensure. Several of the changes in this project will lessen restrictions on examination and re-examination of land surveyor applicants and may reduce application processing time as well. The board has determined that the proposed rule changes will not create a significant and direct impact on these small businesses. Documentation of the small business impact analysis is available upon request.

Bill Sponsor Notification

The primary bill sponsor was contacted by email on April 24, 2025.

Interested Persons

The agency maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the agency. Persons wishing to have their name added to the list may sign up at dli.mt.gov/rules or by sending a letter to P.O. Box 1728, Helena, Montana 59624 and indicating the program or programs about which they wish to receive notices.

Rule Reviewer

Quinlan L. O'Connor

Approval

Sarah Swanson, Commissioner

Approval

Troy Jensen, Chair, Board of Professional Engineers and Professional Land Surveyors

MONTANA
ADMINISTRATIVE
REGISTER

BOARD OF SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS
DEPARTMENT OF LABOR AND INDUSTRY

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-138.1

Summary

Implementing House Bill 384 and revising the dates to apply for speech-language pathology or audiology assistant licensure

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Hearing Date and Time

Thursday, August 14, 2025, at 2:00 p.m.

Virtual Hearing Information

A public hearing will be held via remote conferencing to consider the proposed changes to the rule in this notice. There will be no in-person hearing. Interested parties may access the remote conferencing platform in the following ways:

Join Zoom Meeting: https://mt-gov.zoom.us/j/81742455616

Meeting ID: 817 4245 5616; Password: 409188

Dial by Telephone: +1 646 558 8656

Meeting ID: 817 4245 5616; Password: 409188

Comments

Concerned persons may present their data, views, or arguments at the hearing. Written data, views, or arguments may also be submitted at dli.mt.gov/rules or P.O. Box 1728, Helena, Montana 59624. Comments must be received by Friday, August 22, 2025, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Thursday, July 31, 2025, at 5:00 p.m.

Contact

Department of Labor and Industry
(406) 444-5466
laborlegal@mt.gov
Montana Relay: 711

General Reasonable Necessity Statement

The 2025 Montana Legislature enacted Chapter 451, Laws of 2025 (House Bill (HB) 384), an act revising the date to apply for licensure for speech-language pathology assistants and audiology assistants. The bill was signed by the Governor on May 5, 2025, and was immediately effective. The board must amend ARM 24.222.550 to implement the legislation by updating dates to reflect the statutory change.

Rulemaking Actions

AMEND

The rule proposed to be amended is as follows, stricken matter interlined, new matter underlined:

24.222.550 ASSISTANT LICENSURE – INITIAL APPLICANTS

(1) To practice as a licensed speech-language pathology or audiology assistant in Montana, all assistants must have at least one Montana licensed practitioner of the same profession to supervise the assistant per 37-15-102, MCA.

(2) Speech-language pathology assistant applicants not currently licensed in another state or jurisdiction and who did not serve as unlicensed aides or assistants in Montana prior to ~~January 1, 2024~~ July 15, 2025, must have either:

(a) a baccalaureate degree in speech-language pathology or communication sciences and disorders from an accredited institution; or

(b) a speech-language pathology assistant certificate or associate degree from an accredited institution.

(3) Speech-language pathology assistant applicants not currently licensed in another state or jurisdiction and who served as unlicensed aides or assistants in Montana prior to ~~January 1, 2024~~ July 15, 2025, but do not meet the requirements in (2)(a) or (b) must have a minimum of 690 hours of practical experience under the supervision of a speech-language pathologist.

(4) Audiology assistant applicants not currently licensed in another state or jurisdiction and who did not serve as unlicensed aides or assistants in Montana prior to ~~January 1, 2024~~ July 15, 2025, must have either:

(a) a baccalaureate degree in communication sciences and disorders from an accredited institution;

(b) an audiology assistant certificate or associate degree from an accredited institution; or

(c) a high school diploma or equivalent and a minimum of 10 hours of additional board-approved training in audiology.

(5) Audiology assistant applicants not currently licensed in another state or jurisdiction and who served as unlicensed aides or assistants in Montana prior to ~~January 1, 2024~~ July 15, 2025, but do not meet the requirements in (4)(a), (b), or (c) must have a minimum of 110 hours of practical experience under the supervision of an audiologist.

Authorizing statute(s): 37-15-303, MCA

Implementing statute(s): 37-15-303, MCA

Small Business Impact

The board identifies that a small number of small businesses may be impacted, but the impact is minimal. The fee for licensure as an assistant is $50. The group of small businesses affected are rural hospitals, small clinics, and private practices that may pay licensure fees for their employed speech-language pathology and audiology assistants. Documentation of the small business impact analysis is available upon request.

Bill Sponsor Notification

The primary bill sponsor was contacted on April 15, 2025, by electronic mail.

Interested Persons

The agency maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the agency. Persons wishing to have their name added to the list may sign up at dli.mt.gov/rules or by sending a letter to P.O. Box 1728, Helena, Montana 59624 and indicating the program or programs about which they wish to receive notices.

Rule Reviewer

Jennifer Stallkamp

Approval

Sarah Swanson, Commissioner

Approval

Hillary Carter, Presiding Officer, Board of Speech-Language Pathologists and Audiologists

MONTANA
ADMINISTRATIVE
REGISTER

DEPARTMENT OF LABOR AND INDUSTRY

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-177.1

Summary

Implementing the LEGAL Act

Hearing Date and Time

Tuesday, August 19, 2025, at 9:00 a.m.

Virtual Hearing Information

A public hearing will be held via remote conferencing to consider the proposed adoption of the rule in this notice. There will be no in-person hearing. Interested parties may access the remote conferencing platform in the following ways:

Join Zoom Meeting: https://mt-gov.zoom.us/j/85995597197

Meeting ID: 859 9559 7197; Password: 213755

Dial by Telephone +1 646 558 8656

Meeting ID: 859 9559 7197; Password: 213755

Comments

Concerned persons may present their data, views, or arguments at the hearing. Written data, views, or arguments may also be submitted at dli.mt.gov/rules or P.O. Box 1728, Helena, Montana 59624. Comments must be received by Friday, August 22, 2025, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Tuesday, August 5, 2025, at 5:00 p.m.

Contact

Department of Labor and Industry
(406) 444-5466
laborlegal@mt.gov
Montana Relay: 711

Rulemaking Actions

ADOPT

The rule proposed to be adopted is as follows:

NEW RULE 1 MEDIATION AND HEARING REQUESTS

(1) A party receiving an adverse decision may request a contested case hearing within 15 days from the date the decision is sent.

(2) A request for a contested case hearing must include a statement whether the requesting party wishes to engage in mediation prior to the contested case hearing. If so, mediation will be conducted in accordance with the procedures set forth in ARM 24.16.4025. If mediation does not fully resolve the dispute, any unresolved issues will be resolved through contested case proceedings in accordance with Title 2, chapter 4, part 6, MCA.

Authorizing statute(s): [HB 226, Section 4]

Implementing statute(s): [HB 226, Sections 5 and 6]

Reasonable Necessity Statement

There is reasonable necessity to adopt this rule to provide clarity for penalized parties as to the appeal path. Fifteen days from the date of issuance for the decision to request an appeal aligns this program's implementation with others within the department, such as wage and hour and

independent contractor disputes. This alignment of program appeal rights will assist the public in filing contests when they are the subject of audit under multiple programs, without an accidental waiver of rights. The department further proposes to include an option of mediation for parties contesting decisions. While much of the LEGAL Act concerns the fact of whether employment status verification occurred and is thus not mediatable, there may be appropriate circumstances for mediation regarding issued penalties. These mediations will occur within the mediation office of the department.

Small Business Impact

It is expected that this rulemaking will impact all employers within the state of Montana. However, the impact is expected to be *de minimis*. The requirements imposed by the LEGAL Act have been required under federal law for many years. The bill provides enhanced mechanisms for enforcement to ensure federal I-9 requirements are being met. While businesses subject to audit will be required to produce additional information beyond what was previously required, the audit solely reviews what is required by federal law. Moreover, this rulemaking in particular solely sets forth applicable appeal deadlines and provides an opportunity for mediation. The rules provide no financial burden beyond what is required by the legislation. Documentation of the small business impact analysis is available upon request.

Bill Sponsor Notification

The primary sponsor was contacted by e-mail on May 9, 2025.

Interested Persons

The agency maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the agency. Persons wishing to have their name added to the list may sign up at dli.mt.gov/rules or by sending a letter to P.O. Box 1728, Helena, Montana 59624 and indicating the program or programs about which they wish to receive notices.

Rule Reviewer

Quinlan L. O'Connor

Approval

Sarah Swanson, Commissioner

MONTANA
ADMINISTRATIVE
REGISTER

DEPARTMENT OF LABOR AND INDUSTRY

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-240.1

Summary

Work-based learning grants

Hearing Date and Time

Tuesday, August 19, 2025, at 11:00 a.m.

Virtual Hearing Information

A public hearing will be held via remote conferencing to consider the proposed changes to the rule in this notice. There will be no in-person hearing. Interested parties may access the remote conferencing platform in the following ways:

Join Zoom Meeting: https://mt-gov.zoom.us/j/89306758903

Meeting ID: 893 0675 8903; Password: 734808

Dial by Telephone: +1 646 558 8656

Meeting ID: 893 0675 8903; Password: 734808

Comments

Concerned persons may present their data, views, or arguments at the hearing. Written data, views, or arguments may also be submitted at dli.mt.gov/rules or P.O. Box 1728, Helena, Montana 59624. Comments must be received by Friday, August 22, 2025, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Tuesday, August 5, 2025, at 5:00 p.m.

Contact

Department of Labor and Industry
(406) 444-5466
laborlegal@mt.gov
Montana Relay: 711

Rulemaking Actions

AMEND

The rule proposed to be amended is as follows, stricken matter interlined, new matter underlined:

24.22.701 DEFINITIONS

For the purposes of this subchapter, the following definitions apply:

(1) "Employment" means a student's work in a high-quality work-based learning opportunity.

(2) "Enrolled" means a student is participating in or has successfully completed a qualified high-quality work-based learning opportunity.

(3) "Safety instruction" means learning activities, as generally described in ~~ARM 24.30.2521~~ 39-71-1505, MCA, which teach about safety issues pertaining to the specific high-quality work-based learning opportunity. The methods, materials, and resources should be standard for the industry of the employer.

(4) "Safety training program" means the process which provides employees with knowledge and skills to perform work in a way that is safe for the individual employee and their co-workers as generally described in ~~ARM 24.30.2521~~ 39-71-1505, MCA. It includes instructions and guidelines to identify hazards, report them, and deal with incidents.

(5) "Student" means an individual enrolled in a high-quality work-based learning opportunity through a public or private secondary school, multidistrict cooperative, home school providing secondary instruction, or equivalent educational provider.

(6) "Term-limited educational program" means a high-quality work-based learning opportunity established for a specified time.

(7) "Workers' compensation premium" means the premiums that the employer pays for each student's workers' compensation coverage while the student is employed in a high-quality work-based learning opportunity.

Authorizing statute(s): 39-71-319, MCA

Implementing statute(s): 39-71-319, MCA

Reasonable Necessity Statement

There is reasonable necessity to amend this rule because it contains two cross-references to a repealed rule. The rule was repealed because it was substantially duplicative of 39-71-1505, MCA, in its description of safety training. As such, this rule is proposed to be amended to refer to that statute.

Small Business Impact

This rulemaking is expected to impact students interested in engaging in work-based learning opportunities. Because the sole change proposed by this rulemaking is to eliminate an erroneous cross reference, this rulemaking is not expected to significantly or directly impact small businesses. To the extent of any impact, it should be positive, because the rules will no longer refer to a nonexistent rule.

Bill Sponsor Notification

The bill sponsor contact requirements do not apply.

Interested Persons

The agency maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the agency. Persons wishing to have their name added to the list may sign up at dli.mt.gov/rules or by sending a letter to P.O. Box 1728, Helena, Montana 59624 and indicating the program or programs about which they wish to receive notices.

Rule Reviewer

Quinlan L. O'Connor

Approval

Sarah Swanson, Commissioner

MONTANA
ADMINISTRATIVE
REGISTER

PETROLEUM TANK RELEASE COMPENSATION BOARD

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-195.1

Summary

Amendment of rules pertaining to Senate Bill 315 (2025) and Red Tape Relief Initiative

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Hearing Date and Time

Monday, August 18, 2025, at 3:00 p.m.

Hearing Information

The board will hold a public hearing in the Bitterroot Conference Room at 1221 Cedar Street, Helena, Montana

Virtual Hearing Information

Zoom Meeting

https://mt-gov.zoom.us/j/88987156844?pwd=zQy7xWaC8lIV2b9LlpGwK7VpY96awC.1

Meeting ID: 889 8715 6844
Password: 049439

Dial by Telephone
+1 646 558 8656

Meeting ID: 889 8715 6844
Password: 049439

Join by SIP

88987156844@zoomcrc.com

Join by H.323 (Polycom)
162.255.37.11##88987156844

Comments

Comments may be submitted using the contact information below. Comments must be received by Friday, August 22, 2025, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Monday, August 11, 2025, at 5:00 p.m.

Contact

Garnet Pirre
(406) 444-9713
gpirre@mt.gov

Rulemaking Actions

AMEND

The rules proposed to be amended are as follows, stricken matter interlined, new matter underlined:

17.58.201 MODEL RULES

(1) The board adopts and incorporates by reference the Attorney General's Organizational and Procedural Rules, ARM 1.3.201, 1.3.202, 1.3.211 through 1.3.224, and 1.3.226 through 1.3.233, and the Secretary of State's Model Rules of Practice, ARM 1.4.101 through 1.4.109 and 44.17.101, ~~Organizational and Procedural Rules, ARM 1.3.101, 1.3.102, 1.3.301, 1.3.302, 1.3.304, 1.3.305, 1.3.307 through 1.3.309, 1.3.311 through 1.3.313,~~ including the sample forms that follow the Attorney General's model rules ~~and the Secretary of State's online template forms referenced in ARM 1.3.301 and found at www.armtemplates.com/, depicting standard boilerplate language for model forms related to rulemaking~~.

(2) The Attorney General's Organizational and Procedural Rules and the Secretary of State's Organizational and Procedural Rules referenced in (1) may be found online at rules.mt.gov ~~http://www.mtrules.org/~~.

Authorizing statute(s): 2-4-201, MCA

Implementing statute(s): 2-4-201, MCA

Reasonable Necessity Statement

The board proposes to amend this rule in order to incorporate the Montana Secretary of State's amended rules adopted in MAR Notice No 44-2-275, Issue 12, on June 21, 2024.

17.58.311 DEFINITIONS

Unless the context clearly indicates otherwise, the following definitions, in addition to those in 75-11-302, MCA, apply throughout this chapter:

(1) and (2) remain the same.

~~(3) "Automobile," for purposes of reimbursing eligible costs, means a light vehicle as defined at 61-1-139, MCA.~~

(4) through (31) remain the same but are renumbered (3) through (30).

Authorizing statute(s): 75-11-318, MCA

Implementing statute(s): 75-11-318, MCA

Reasonable Necessity Statement

The definition of "automobile" at 61-1-139, MCA was repealed in 2005. This proposed amendment is part of the Red Tape Relief Initiative.

17.58.336 REVIEW AND DETERMINATION OF CLAIMS FOR REIMBURSEMENT

(1) through (8) remain the same.

(9) Claims for preventative costs subject to the provisions of [Senate Bill 315, Section 1 (2025)], must be reimbursed according to the following:

(a) Facilities that are eligible to submit claims for preventative costs are those that are actively dispensing petroleum and fall under the regulatory authority of and compliance with the Department of Environmental Quality's Underground Storage Tank Program. Facility types that are excluded from applying for preventative costs are those identified in 75-11-308(2)(a) through (d), MCA.

(b) The first claim for preventative costs will only be considered 1,000 days after an actively dispensing facility's most recent tri-annual mandatory compliance inspection. The owner or operator that incurred the preventative costs may submit one consolidated claim, not exceeding $2,000 in claimed costs, to the board in a form and manner approved by the board.

(c) After the first claim is submitted under (a), subsequent claims will be submitted in 1,000-day intervals, in a consolidated claim not exceeding $2,000.

(d) Each preventative costs claim submitted for reimbursement will require proof of payment of the costs by the owner or operator that incurred those costs, and appropriate receipts of all costs for which reimbursement is sought.

(e) Each preventative costs claim received as outlined in (b) and (c) will be brought before the board at their regularly scheduled board meetings, for ratification of costs and will not be subject to disputes. Only fully documented claims submitted in the form and manner approved by the board will be considered for ratification of payments made.

(f) The board will consider preventative costs claims if they are submitted within the timing outlined in [Senate Bill 315, Section 1 (2025)] are for costs incurred after the effective date of [Senate Bill 315, Section 1 (2025)], are submitted on the form approved by the board, and contain the required documentation to support the requested reimbursement for preventative costs.

Authorizing statute(s): 75-11-318, MCA

Implementing statute(s): 75-11-309, MCA; [Senate Bill 315, Section 1 (2025)]

Reasonable Necessity Statement

The proposed added language is in response to SB 315. This will support the requirement to initiate rulemaking to implement this new section.

17.58.342 OTHER CHARGES ALLOWED OR DISALLOWED

(1) The following costs incurred in implementing a corrective action plan are presumed to be reasonably incurred:

(a) through (i) remain the same.

(j) sampling fees at ~~$10~~ $20 per sample, which includes ice, cooler, packing, and office-related handling charges.

(2) through (4) remain the same.

Authorizing statute(s): 75-11-318, MCA

Implementing statute(s): 75-11-318, MCA

Reasonable Necessity Statement

The proposed change in allowed sampling fees has been calculated through analysis by the board of the rising costs covered by that fee.

17.58.343 REVIEW AND DETERMINATION OF THIRD-PARTY DAMAGE COSTS

(1) remains the same.

~~(2) The board may delegate to the director of the Department of Environmental Quality authority to process and order reimbursement of specified categories of claims upon receipt and review. The director of the Department of Environmental Quality shall report the number of such claims and the amounts obligated or expended at the next meeting of the board.~~

(3) through (5) remain the same but are renumbered (2) through (4).

Authorizing statute(s): 75-11-318, MCA

Implementing statute(s): 75-11-309, MCA

Reasonable Necessity Statement

The proposed change follows the organizational structure of the Petroleum Tank Release Compensation Board's authority as an agency attached to the Department of Environmental Quality administratively.

Small Business Impact

The Petroleum Tank Release Compensation Board (PTRCB) has determined that the class or group of businesses that will be affected by this proposed rulemaking are those businesses that have underground petroleum storage tanks located at actively dispensing petroleum facilities. PTRCB does not believe the proposed rulemaking will have a significant and direct impact on small businesses. The proposed rule changes are limited to $2,000 every three years per facility for coverage of specific preventative activities undertaken by the responsible parties/businesses with underground petroleum storage tanks at actively dispensing facilities upon claim submission. There is also an increase in allowed fees for sampling from $10 per sample to $20 per sample, and this increase will potentially affect the consulting community but cumulative costs and number of persons affected are not known because it is dependent on the sampling fees being submitted in claims to PTRCB. PTRCB has completed a small business impact analysis, which is available upon request.

Bill Sponsor Notification

The bill sponsor contact requirements apply. The bill sponsor was contacted by email on May 22, 2025.

Interested Persons

Per ARM 17.58.301, access to an interested parties e-mail list is on the board's website. Any person may add their name and e-mail address to the board's interested parties e-mail list at https://deq.mt.gov/cleanupandrec/Programs/ptrcb.

Rule Reviewer

Garnet Pirre

Approval

John Monahan, Presiding Officer

MONTANA
ADMINISTRATIVE
REGISTER

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-524.1

Summary

Amendment of ARM 37.40.1402, 37.40.1406, 37.40.1415 and repeal of ARM 37.40.1436 and 37.40.1438 pertaining to community supports and supported living services

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Hearing Date and Time

Friday, August 15, 2025, at 10:00 a.m.

Virtual Hearing Information

Join Zoom Meeting : https://mt-gov.zoom.us/j/87586705062?pwd=Ys9kglH17eAKrsVuWVzqm7cXA5hpyD.1

Meeting ID: 875 8670 5062 and Password: 929042

Dial by Telephone +1 646 558 8656

Meeting ID: 875 8670 5062 and Password: 929042

Find your local number: https://mt-gov.zoom.us/u/kbXHcC9dl1

Comments

Comments may be submitted using the contact information below. Comments must be received by Friday, August 22, 2025, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Friday, August 1, 2025, at 5:00 p.m.

Contact

Bailey Yuhas
(406) 329-7913
hhsadminrules@mt.gov
Fax: (406) 444-9744

Rulemaking Actions

AMEND

The rules proposed to be amended are as follows, stricken matter interlined, new matter underlined:

37.40.1402 HOME AND COMMUNITY-BASED SERVICES FOR ELDERLY AND PHYSICALLY DISABLED PERSON: DEFINITIONS

(1) "Adult residential care" means a residential habilitation option for consumers residing in an adult foster home, group home, or assisted living facility.

(2) "Case management" means a service that provides the planning for, arranging for, implementation of, and monitoring of the delivery of services available through the program to a consumer.

~~(3) "Community supports" means services that are inclusive of personal assistant services (Attendant PAS and Socialization/Supervision PAS), homemaker, chore, transportation, and respite type services.~~

~~(4)~~(3) "Community transitions services" means nonrecurring set-up expenses for individuals who are transitioning from an institutional or other provider-operated living arrangement to a living arrangement in a private residence where the person is directly responsible for his or her own living expenses.

~~(5)~~(4) "Consultative clinical and therapeutic services" means services that assist unpaid and/or paid caregivers in carrying out individual service plans and are necessary to improve the individual's independence and inclusion in the community.

~~(6)~~(5) "Consumer-directed goods and services" means services, supports, supplies, or goods not otherwise provided through this waiver or the Medicaid state plan.

~~(7)~~(6) "Family training and support" means a service that provides training to families and others who work or play with a child with a disability.

~~(8)~~(7) "Financial management services" means services provided by an individual called a financial manager who provides finance, employer, payroll, and related functions for the consumer or personal representative.

~~(9)~~(8) "Habilitation" means the provision of intervention services designed for assisting a consumer to acquire, retain, and improve the self-help, socialization, and adaptive skills necessary to reside successfully at home and in the community.

~~(10)~~(9) "Health and wellness" means services that assist consumers in acquiring, retaining, and improving self-help, socialization, and adaptive skills to reside successfully in the community.

~~(11)~~(10) "Homemaker chore" means services provided for individuals who are unable to manage their own home or when the consumer, normally responsible for homemaking, is absent.

~~(12)~~(11) "Independence advisor services" means services that provide an array of consumer-directed support activities to ensure the ability of consumers to direct their care successfully.

~~(13)~~(12) "Nonmedical transportation" means the provision to a consumer of transportation through common carrier or private vehicle for access to social or other nonmedical activities.

~~(14)~~(13) "Pain and symptom management" means a service that allows the provision of traditional and nontraditional methods of pain management.

~~(15)~~(14) "Participant direction" means an option available to individuals who elect to direct their own care and that participants, or their representatives, have decision-making authority over certain services and take direct responsibility to manage their services with the assistance of a system of available support.

~~(16)~~(15) "Personal assistant services" (PAS) is defined at 53-6-145, MCA and includes attendant PAS and socialization/supervision PAS.

~~(17)~~(16) "Post-acute rehabilitation services" means the provision of therapeutic intervention to a consumer with a brain injury or other related disability in a residential or nonresidential setting.

~~(18)~~(17) "Respite care" means the provision of supportive care to a consumer to relieve those unpaid persons normally caring for the consumer from that responsibility.

~~(19)~~(18) "Senior companion" means services directed at providing companionship and assistance.

~~(20)~~(19) "Serious occurrence" means a significant event which affects the health, welfare, and safety of an individual served in home and community-based services. The department has established a system of reporting and monitoring serious incidents that involve consumers served by the program in order to identify, manage, and mitigate overall risk to the individual.

~~(21)~~(20) "Service plans" means a written plan of supports and interventions based on an assessment of the status and needs of a consumer.

~~(22)~~(21) "Specialized child care for medically fragile children" means the provision of day care, respite care, and other direct and supportive care to a consumer under 18 years of age who is medically fragile and who, due to medical and other needs, cannot be served through traditional child care settings.

~~(23)~~(22) "Specially trained attendant care" means an option under personal assistance that is the provision of supportive services to a consumer residing in their own residence.

~~(24) "Supported living" means the provision of supportive services to a recipient residing in an individual residence or in a group living situation. It is a comprehensive service designed to support a person with brain injury or other severe disability.~~

Authorizing statute(s): 53-2-201, 53-6-101, 53-6-111, 53-6-113, 53-6-402, MCA

Implementing statute(s): 53-2-201, 53-6-101, 53-6-111, 53-6-402, MCA

37.40.1406 HOME AND COMMUNITY-BASED SERVICES FOR ELDERLY AND PHYSICALLY DISABLED PERSONS: SERVICES

(1) The services available through the program are limited to those specified in this rule.

(2) The department may determine the particular services of the program to make available to a recipient based on, but not limited to, the following criteria:

(a) the recipient's need for a service generally and specifically;

(b) the availability of a specific service through the program and any ancillary service necessary to meet the recipient's needs;

(c) the availability otherwise of alternative public and private resources and services to meet the recipient's need for the service;

(d) the recipient's risk of significant harm or of death if not in receipt of the service;

(e) the likelihood of placement into a more restrictive setting if not in receipt of the service; or

(f) the financial costs for and other impacts on the program arising out of the delivery of the service to the person.

(3) A person enrolled in the program may be denied a particular service available through the program that the person desires to receive or is currently receiving.

(4) Bases for denying a service to a person include, but are not limited to:

(a) the person requires more supervision than the service can provide;

(b) the person's needs, inclusive of health, can no longer be effectively or appropriately met by the service;

(c) access to the service, even with reasonable accommodation, is precluded by the person's health or other circumstances;

(d) a necessary ancillary service is no longer available; and

(e) the financial costs for and other impacts on the program arising out of the delivery of the service to the person.

(5) The department may make program services for persons with intensive needs available to a recipient whom it determines, based on past medical history and current medical diagnosis, would otherwise require on a long-term basis the level of care of an inpatient hospital or a rehabilitation service setting.

(6) The following services, as defined in these rules, may be provided through the program:

(a) adult day health;

(b) adult residential care;

(c) case management services;

~~(d) community supports services;~~

~~(e)~~(d) community transition services;

~~(f)~~(e) consultative clinical and therapeutic services;

~~(g)~~(f) consumer-directed goods and services;

~~(h)~~(g) day habilitation;

~~(i)~~(h) dietetic services;

~~(j)~~(i) environmental accessibility adaptations;

~~(k)~~(j) family training and support;

~~(l)~~(k) financial management;

~~(m)~~(l) habilitation;

~~(n)~~(m) health and wellness;

~~(o)~~(n) homemaker chore services;

~~(p)~~(o) homemaker;

~~(q)~~(p) independence advisor;

~~(r)~~(q) nonmedical transportation;

~~(s)~~(r) nursing;

~~(t)~~(s) nutrition services;

~~(u)~~(t) occupational therapy;

~~(v)~~(u) pain and symptom management;

~~(w)~~(v) personal assistance;

~~(x)~~(w) personal emergency response systems;

~~(y)~~(x) physical therapy;

~~(z)~~(y) post-acute rehabilitation services;

~~(aa)~~(z) respiratory therapy;

~~(bb)~~(aa) respite care;

~~(cc)~~(bb) senior companion services;

~~(dd)~~(cc) speech pathology and audiology;

~~(ee)~~(dd) specially trained attendants;

~~(ff)~~(ee) specialized child care for medically fragile children;

~~(gg)~~(ff) specialized medical equipment and supplies; and

~~(hh) supported living; and~~

~~(ii)~~(gg) vehicle modifications.

(7) Monies available through the program may not be expended on the following:

(a) room and board;

(b) special education and related services as defined at 20 USC 1401(16) and (17); and

(c) vocational rehabilitation.

(8) The program is considered the payor of last resort. A service available through the program is not available to any extent that a service of another program is otherwise available to a recipient to meet the recipient's need for that service.

Authorizing statute(s): 53-2-201, 53-6-101, 53-6-113, 53-6-402, MCA

Implementing statute(s): 53-2-201, 53-6-101, 53-6-402, MCA

37.40.1415 HOME AND COMMUNITY BASED SERVICES FOR ELDERLY AND PHYSICALLY DISABLED PERSONS: REIMBURSEMENT

(1) Services available through the program are reimbursed as specified in this rule.

(2) The following services are reimbursed as provided in (3):

(a) adult day health;

(b) adult residential care;

(c) case management services;

~~(d) community supports services;~~

~~(e)~~(d) community transition services;

~~(f)~~(e) consultative clinical and therapeutic services;

~~(g)~~(f) consumer-directed goods and services;

~~(h)~~(g) dietetic services;

~~(i)~~(h) environmental accessibility adaptations;

~~(j)~~(i) family training and support;

~~(k)~~(j) financial management;

~~(l)~~(k) habilitation;

~~(m)~~(l) health and wellness;

~~(n)~~(m) homemaker chore services;

~~(o)~~(n) homemaker;

~~(p)~~(o) independence advisor;

~~(q)~~(p) nonmedical transportation;

~~(r)~~(q) nursing;

~~(s)~~(r) nutrition services;

~~(t)~~(s) pain and symptom management;

~~(u)~~(t) personal emergency response systems;

~~(v)~~(u) post-acute rehabilitation services;

~~(w)~~(v) respite care;

~~(x)~~(w) senior companion services;

~~(y)~~(x) specialized child care for medically fragile children; and

~~(z) supported living; and~~

~~(aa)~~(y) vehicle modifications.

(3) The services specified in (2) are, except as otherwise provided in (4), reimbursed at the lower of the following:

(a) the provider's usual and customary charge for the service; or

(b) the rate negotiated with the provider by the case management team up to the department's maximum allowable fee.

(4) The services specified in (2) are reimbursed as provided in (3) except that reimbursement for components of those services that are incorporated by specific cross reference from the general Medicaid program may only be reimbursed in accordance with the reimbursement methodology applicable to the component service as a service of the general Medicaid program.

(5) The following services are reimbursed in accordance with the referenced provisions governing reimbursement of those services through the general Medicaid program:

(a) personal assistance as provided at ARM 37.40.1105 and 37.40.1302;

(b) outpatient occupational therapy as provided at ARM 37.86.610;

(c) outpatient physical therapy as provided at ARM 37.86.610;

(d) speech therapy as provided at ARM 37.86.610; and

(e) audiology as provided at ARM 37.86.705.

(6) Case management services are reimbursed, as established by contractual terms, on either a per diem or hourly rate.

(7) Respite care services provided by a nursing facility are reimbursed at the rate established for the facility in accordance with ARM Title 37, chapter 40, subchapter 3.

(8) Specialized medical equipment and supplies are reimbursed as follows:

(a) equipment and supplies which are reimbursable under ARM 37.86.1801, 37.86.1802, 37.86.1806, and 37.86.1807 shall be reimbursed as provided in ARM 37.86.1807;

(b) equipment and supplies which are not reimbursable under ARM 37.86.1801, 37.86.1802, 37.86.1806, and 37.86.1807 shall be reimbursed at the lower of the following:

(i) the provider's usual and customary charge for the item; or

(ii) the negotiated rate up to the department's maximum allowable fee.

(9) Reimbursement is not available for the provision of a service to a person that may be reimbursed through another program.

(10) No copayment is imposed on services provided through the program but recipients are responsible for copayment on other services reimbursed with Medicaid monies.

(11) Reimbursement is not available for the provision of services to other members of a recipient's household or family unless specifically provided for in these rules.

(12) Payment for the following services may be made to legally responsible individuals, if all program criteria in ARM 37.40.1407 are met:

(a) personal assistance;

(b) homemaker;

(c) specially trained attendant;

(d) specialized child care for medically fragile children;

(e) private duty nursing;

(f) transportation;

(g) respite;

~~(h) community supports;~~

~~(i)~~(h) consumer-directed goods and services;

~~(j)~~(i) homemaker chore;

~~(k)~~(j) pain and symptom management;

~~(l)~~(k) vehicle modifications; and

~~(m)~~(l) environmental accessibility adaptations.

(13) When the Legislature funds a direct care wage initiative, waiver providers targeted by the initiative must report to the department, for a determined time period, actual hourly wage and benefit rates paid for all direct care workers or the lump sum payment amounts for all direct care workers that will receive the benefit of the increased funds. The reported data shall be used by the department for the purpose of tracking distribution of direct care wage funds to designated workers.

(a) The department will pay targeted waiver providers that submit an approved request to the department a lump sum payment in addition to the Medicaid reimbursement rate to be used only for wage and benefit increases or lump sum payments for direct care workers.

(b) To receive the direct care workers' lump sum payment, a targeted provider shall submit for approval a request form to the department stating how the direct care workers' lump sum payment will be spent to comply with all department requirements. The provider shall submit all of the information required on the form in order to continue to receive subsequent lump sum payment amounts.

(c) If these funds will be distributed in the form of a wage increase to direct care workers the form for wage and benefit increases will request information including, but not limited to:

(i) the number of category of each direct care worker that will receive the benefit of the increased funds;

(ii) the actual per hour rate of pay before benefits and before the direct care wage increase has been implemented for each worker that will receive the benefit of the increased funds;

(iii) the projected per hour rate of pay with benefits after the direct wage increase has been implemented;

(iv) the number of staff receiving a wage or benefit increase by category of worker, effective date of implementation of the increase in wage and benefit; and

(v) the number of projected hours to be worked in the budget period.

(d) If these funds will be used for the purpose of providing lump sum payments (i.e., bonus, stipend, or other payment types) to direct care workers the form will request information including, but not limited to:

(i) the number of category of each direct care worker that will receive the benefit of the increased funds;

(ii) the type and actual amount of lump sum payment to be provided for each worker that will receive the benefit of the lump sum funding;

(iii) the breakdown of the lump sum payment by the amount that represents benefits and the direct payment to workers by category of worker; and

(iv) the effective date of implementation of the lump sum benefit.

(e) A provider that does not submit a qualifying request for use of the funds distributed under (2), or does not include all of the information requested by the department, within the time established by the department, or a provider that does not wish to participate in this additional funding amount shall not be entitled to their share of the funds available for wage and benefit increases or lump sum payments for direct care workers.

(14) A provider that receives funds under this rule must maintain appropriate records documenting the expenditure of the funds. This documentation must be maintained and made available to authorize governmental entities and their agents to the same extent as other required records and documentation under applicable Medicaid record requirements, including but not limited to the provisions of ARM 37.40.345, 37.40.346, and 37.85.414.

Authorizing statute(s): 53-2-201, 53-6-113, 53-6-402, MCA

Implementing statute(s): 53-6-101, 53-6-111, 53-6-113, 53-6-402, MCA

REPEAL

The rules proposed to be repealed are as follows:

37.40.1436 HOME AND COMMUNITY-BASED SERVICES FOR ELDERLY AND PHYSICALLY DISABLED PERSONS: COMMUNITY SUPPORTS SERVICES, REQUIREMENTS

Authorizing statute(s): 53-2-201, 53-6-101, 53-6-111, 53-6-113, 53-6-402, MCA

Implementing statute(s): 53-2-201, 53-6-101, 53-6-111, 53-6-402, MCA

37.40.1438 HOME AND COMMUNITY-BASED SERVICES FOR ELDERLY AND PHYSICALLY DISABLED PERSONS: SUPPORTED LIVING, REQUIREMENTS

Authorizing statute(s): 53-2-201, 53-6-113, 53-6-402, MCA

Implementing statute(s): 53-6-402, MCA

General Reasonable Necessity Statement

The Department of Public Health and Human Services (department) is proposing the amendment and repeal of the above-stated rules to implement changes required by the Centers for Medicare & Medicaid Services (CMS) to Montana's 1915(c) Home and Community Based Montana Medicaid Big Sky Waiver (BSW). During the submission of the BSW renewal, CMS determined that community support and supported living are bundled services that do not comply with 42 CFR 441.301(b)(4). Under this federal requirement, furnished waiver services are required to be separately defined and multiple services that are generally considered to be separate services may not be consolidated under a single service definition.

As required by CMS, these bundled services are no longer available under the BSW. Removal of these bundled services from administrative rule is necessary to ensure the department's rules governing BSW services align with federal requirements and the BSW renewal effective July 1, 2024.

The department has a transition plan in place that includes working with Case Management Teams (CMTs) to assist with the transition of members from community supports and supported living services to identical BSW and state plan stand-alone services. CMTs will ensure that members will be transitioned to these identical stand-alone services without interruption to service delivery to meet member needs as reflected in member service plans. CMTs will also provide member referrals to community resources and State Plan services as needed. CMTs will notify all members who are receiving community supports and supported living services of the transition from bundled services to stand-alone BSW services and will utilize person centered planning processes to smoothly transition members. This transition plan is outlined on pages 13 through 15 of the approved 1915(c) Home and Community-Based Services Waiver and is electronically accessible at: https://www.dphhs.mt.gov/assets/hcbs/1915cHomeandCommunityBasedServicesWaiver.pdf.

ARM 37.40.1402

Consistent with the current BSW, the department proposes to remove the definitions of "community supports" and "supported living."

ARM 37.40.1406
The department proposes to remove community supports services and supported living from the list of services that may be provided through the BSW program since such services are no longer available as bundled services under the program.

ARM 37.40.1415
The department proposes to remove community supports services and supported living from the list of services that are reimbursed or for which payment may be made to legally responsible individuals because the program no longer covers such services as bundled services.

ARM 37.40.1436
The department proposes to repeal this rule, which established the requirements for the reimbursement of community supports services because such services are no longer covered as bundled services under the BSW program.

ARM 37.40.1438
The department proposes to repeal this rule, which established the requirements for the reimbursement of supported living services because such services are no longer covered as bundled services under the BSW program.

Fiscal Impact

Removal of Supported Living Services
Four members are currently receiving services through the supported living bundled service. The supported living bundled service had an administrative cost of $414,884 in state fiscal year (SFY) 2024. Supported Living services will be transitioned to BSW standalone services with a projected administrative cost of $312,229 in SFY 2025. The proposed removal of this bundled service will result in a projected cost savings of approximately $102,000.

Removal of Community Support Services
Currently, 24 members are receiving community support bundled services consisting of personal assistance and, homemaker chore. The community support bundled service had an administrative cost of $323,625 in SFY 2025.

BSW personal assistance services had an administrative cost of $959,678 in SFY 2025. BSW personal assistance services include personal care services, personal emergency response systems, and medical escort. These services will be transitioned to the Community First Choice program. Federal participation under CFC is 6% higher than the standard Federal Medical Assistance Percentage (FMAP). FMAP in SFY 2025 is 62.37% for traditional Medicaid and 68.37% for CFC FMAP. Transition from BSW to CFC is estimated to result in a cost savings of $57,581.

The proposed removal of the community support bundles services is projected to result in a cost savings of $912,777 to the BSW program.

Interested Persons

The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the department. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be emailed, mailed or otherwise delivered to the contact person above.

Bill Sponsor Notification

The bill sponsor contact requirements do not apply.

Small Business Impact

Pursuant to 2-4-111, MCA, the class of small businesses probably affected by the proposed rules are those providing community supports, supported living, independent advisor, or fiscal management services. The department does not believe the proposed rules will have a probable significant and direct effect on the small businesses given that individuals receiving community supports and supported living services will be transitioned to standalone services that small businesses can provide. Additionally, small businesses that provide independent advisor or fiscal management services can continue to provide those services to self-direct members who transition to the standalone services.

Medicaid Performance-Based Statement

Section 53-6-196, MCA, requires that the department, when adopting by rule proposed changes in the delivery of services funded with Medicaid monies, make a determination of whether the principal reasons and rationale for the rule can be assessed by performance-based measures and, if the requirement is applicable, the method of such measurement. The statute provides that the requirement is not applicable if the rule is for the implementation of rate increases or of federal law.

The department has determined that the proposed program changes presented in this notice are not appropriate for performance-based measurement and therefore are not subject to the performance-based measures requirement of 53-6-196, MCA.

Rule Reviewer

Robert Lishman

Approval

Charles T. Brereton, Director
Department of Public Health and Human Services

MONTANA
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REGISTER

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-526.1

Summary

Amendment of ARM 37.81.304 pertaining to the Big Sky Rx Program

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Hearing Date and Time

Thursday, August 14, 2025, at 9:00 a.m.

Virtual Hearing Information

Join Zoom Meeting- https://mt-gov.zoom.us/j/87539203380?pwd=3MI8nHoD4CB3DIJkmJJdYt6oUapbhB.1

Meeting ID: 875 3920 3380 and Password: 827847

Dial by Telephone +1 646 558 8656

Meeting ID: 875 3920 3380 and Password: 827847

Find your local number: https://mt-gov.zoom.us/u/kURKaNJsU

Comments

Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may be submitted using the contact information below. Comments must be received by Friday, August 22, 2025, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Thursday, July 31, 2025, at 5:00 p.m.

Contact

Bailey Yuhas
(406) 329-7913
hhsadminrules@mt.gov
Fax: (406) 444-9744

Rulemaking Actions

AMEND

The rule proposed to be amended is as follows, stricken matter interlined, new matter underlined:

37.81.304 AMOUNT OF THE BIG SKY RX BENEFIT

(1) An applicant eligible for the Big Sky Rx PDP premium assistance may receive a benefit not to exceed ~~$42.20~~ $50.60 per month. The benefit amount will not exceed ~~$42.20~~ $50.60 regardless of the cost of the premium for the PDP the individual chooses.

(a) If a portion of the applicant's PDP premium is paid through the Extra Help Program, the Big Sky Rx Program will pay the applicant's portion of the PDP premium up to ~~$42.20~~ $50.60 per month.

(b) Big Sky Rx does not pay for the cost of an enrollee's drugs or the cost of an enrollee's deductible, coinsurance, or copayments.

(c) All expenditures are contingent on legislative appropriation. The amount of the monthly benefit, ~~$42.20~~ $50.60, extends the Social Security Extra Help benefit amount to Montana residents with income up to 200% FPL. The department's total expenditure for the program will be based on appropriation and the number of enrolled applicants.

Authorizing statute(s): 53-2-201, 53-6-1004, MCA

Implementing statute(s): 53-2-201, 53-6-1001, 53-6-1004, 53-6-1005, MCA

General Reasonable Necessity Statement

The Department of Public Health and Human Services (department) proposes to amend ARM 37.81.304 to increase the maximum amount the Big Sky Rx program contributes toward the monthly premium for eligible enrollees of the Medicare Prescription Drug Plan (PDP).

The department is proposing to increase the maximum benefit from $42.20 per month to $50.60 per month to align with the 2025 Low Income Subsidy (LIS) monthly benefit benchmark established by the Centers for Medicare & Medicaid Services (CMS) and published at: https://www.cms.gov/files/document/regional-rates-and-benchmarks-2025.pdf. The Big Sky Rx program follows the LIS premium benchmark to ensure a reasonable and prudent monthly benefit for enrolled members. This proposed benefit adjustment is necessary to ensure the Big Sky Rx benefit aligns with the LIS benchmark set by CMS.

Effective Date

The department intends to apply this rule amendment retroactively to January 1, 2025.

Small Business Impact

Pursuant to 2-4-111, MCA, the agency has determined there is no class or group of small businesses affected by the proposed rule amendment and that the proposed rule will not have a significant and direct effect upon small businesses.

Fiscal Impact

This rule proposal will affect 877 persons enrolled in the Big Sky Rx Program by increasing the amount of monthly assistance by $8.40. This rule proposal will increase the state special fund spending by $7,366.80 per month or $88,401.60 on an annual basis.

Interested Persons

The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the department. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive

notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be emailed, mailed or otherwise delivered to the contact person above.

Bill Sponsor Notification

The bill sponsor contact requirements do not apply.

Rule Reviewer

Robert Lishman

Approval

Charles T. Brereton, Director
Department of Public Health and Human Services

MONTANA
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DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

NOTICE OF ADOPTION

MAR NOTICE NO. 2025-280.2

Summary

Amendment of ARM 37.40.1013 pertaining to Community First Choice Provider Enrollment

Previous Notice(s) and Hearing Information

On February 21, 2025, the Department of Public Health and Human Services published MAR Notice No. 2025-280.1 pertaining to the public hearing on the proposed amendment of the above-stated rule in the 2025 Montana Administrative Register, Issue Number 4.

A hearing was held on March 14, 2025.

Final Rulemaking Action – Effective July 26, 2025

AMEND AS PROPOSED

The agency has amended the following rule as proposed:

37.40.1013 AGENCY-BASED AND SELF-DIRECTED COMMUNITY FIRST CHOICE SERVICES: PROVIDER ENROLLMENT

Statement of Reasons

The agency has considered the comments and testimony received. A summary of the comments received, and the agency's responses are as follows:

Comment #1: A commenter suggested the department revise Electronic Visit Verification (EVV) requirements for live-in caregivers to allow for an exemption or waiver from using EVV for good

cause shown to account for circumstances in which Internet access or cellular service is unavailable or the member is unable to afford such services. The commenter referenced the circumstances of a member residing in a rural area where Internet access and cellular service is unavailable and indicated the rule as proposed will result in a loss of services for this member provided through a live-in caregiver.

Response #1: The department recognizes the challenges of EVV use for members residing in rural areas of the state that lack reliable Internet access and cellular service as well as affordability issues that can exist for such services. The department believes these challenges can be addressed through means short of establishing an exemption or waiver to compliance with EVV. As part of implementing EVV, the department initially planned to make available an Interactive Voice Response (IVR) option for a period of up to 90 days. IVR is a system that allows caregivers to comply with EVV requirements through use of a landline telephone without the need for cellular service, Internet access, or a smart device. In response to the concerns raised by the commenter, the department is making IVR available as an option for members who lack Internet access or cellular service or are unable to afford such services. Members may request to use IVR by completing the IVR request form located at: https://mt.accessgov.com/dphhs/Forms/Page/evv/electronicvisitverification/. Approved requests for IVR will remain valid indefinitely, but are subject to periodic review by the department to ensure they continue to meet approval criteria. This process is intended to ensure that all members have the ability to comply with EVV and that implementation of EVV will not result in the loss of member services.

Comment #2: A commenter indicated the proposal to mandate use of EVV for live-in caregivers, as applied to members who have no cellular service or Internet access, is unlawful under the Americans with Disabilities Act (ADA) and *Olmstead v. L.C.*, 527 U.S. 581 (1999), because it creates an inability for members to comply with EVV, which will result in the loss of caregiver services and unjustified institutionalization of members.

Response #2: Please see the response to Comment #1. The department also considers requests for a reasonable accommodation on an individualized basis consistent with the requirements of the ADA.

Comment #3: A commenter indicated the proposal to mandate use of EVV for live-in caregivers, as applied to members who have no cellular service or Internet access, violates due process because it creates an inability for members to comply with EVV and will result in the loss of caregiver services.

Response #3: Please see the response to Comment #1. Additionally, the department has due process protections in place arising from any decision it makes to terminate a member's services under which the member receives written notice of the decision, a statement of the reasons for the decision, and the opportunity to contest the decision through an administrative hearing. *See* ARM 37.5.505 and 37.5.307.

Comment #4: A commenter indicated the proposal to mandate use of EVV for live-in caregivers, as applied to members who have no cellular service or Internet access, amounts to an excessive fine in violation of the Eighth Amendment of the United States Constitution because it will lead to a loss of caregiver services for members.

Response #4: The department disagrees. The proposed rule does not involve the imposition of any fine. Please see the response to Comment #1 regarding concerns about the ability to meet EVV requirements in cases of lack of Internet access or cellular service.

Comment #5: A commenter indicated that controlling case law from the Ninth Circuit Court of Appeals requires that employers reimburse an employee for the cost of using their personal cellular phone in the course of the employee's job duties. The commenter references *Kemper v. West Business Solutions, LLC* (2018), but did not include the case citation.

Response #5: The department is unable to locate a case from the Ninth Circuit Court of Appeals with the caption identified by the commenter. Based upon the commenter's description of the holding, the department has determined that the case cited by the commenter, *Kemper v. West Business Solutions, LLC* (2018), is inapplicable to the proposed rule given that the department is not an employer of members receiving Community First Choice Services and Personal Care Services or of the caregivers providing these services.

Comment #6: A commenter indicated that the Netsmart EVV application cannot be used to capture visits if there is no cellular or Internet access.

Response #6: The Netsmart application, once installed on a smart device, allows visits to be captured in offline mode and to be uploaded once the device is connected to cellular or Internet service.

Comment #7: A commenter indicated the federal statutory authority referenced in the proposed rulemaking does not support the proposed rule because the statute does not set forth the elements required to be captured by an EVV system. The commenter indicated the statute instead provides that "the regulations must ensure that this payment prohibition does not result in a loss of access to care or services for Medicaid beneficiaries."

Response #7: The department disagrees. The proposed rulemaking references 42 U.S.C. 1396b(l), which does set forth the elements required to be captured under an EVV system. The commenter may be referring to 42 U.S.C. 1396b-1, which governs payment adjustment for health care acquired conditions and is inapplicable to this rulemaking. Additionally, the department does not believe that implementation of EVV will result in a loss of access to Community First Choice Services and Personal Care Services, particularly given the availability of the option of using a landline through IVR to meet EVV requirements.

Commenter #8: A commenter indicated the authorizing statute cited in support of the rulemaking (53-2-201, MCA) does not support the rule because applying EVV to live-in caregivers is inconsistent with federal law.

Response #8: The department agrees that rules adopted under this statute must be consistent with federal law, but disagrees the proposed rule is inconsistent with federal law. Please see the statement of reasonable necessity, which details why applying EVV to live-in caregivers is not inconsistent with federal law and aligns with Centers for Medicare & Medicaid Services guidance.

Comment #9: A commenter indicated that the implementing statutes cited in support of the rulemaking (53-2-201 and 53-6-113, MCA) do not support the rule because EVV is not required by federal law for live-in caregivers and imposing such a requirement is inconsistent with federal law.

Response #9: The department agrees that EVV is not required by federal law for live-in caregivers, but disagrees that establishing such a requirement is inconsistent with federal law. States are not prohibited from applying EVV to live-in caregivers under federal law. As set forth in the statement of reasonable necessity, Centers for Medicare & Medicaid Guidance Services guidance specifically provides that states may choose to implement EVV to live-in caregiver services, particularly when using discrete units of reimbursement. In Montana, Community First Choice Services and Personal Care Services providers are paid in discrete units of reimbursement of 15-minute increments. Applying EVV to live-in caregivers is not inconsistent with federal law.

Comment #10: A commenter questioned the stated need of the rule to control fraud, waste, and abuse and how applying to EVV to live-in caregivers will prevent fraud, waste, and abuse.

Response #10: Please see paragraph four of the statement of reasonable necessity in the proposal notice, which explains how EVV will help combat fraud, waste, and abuse for all members utilizing Community First Choice Services and Personal Care Services, including members who receive services through a live-in caregiver.

Comment #11: A commenter questioned the department's conclusion that the proposed rulemaking is anticipated to have no fiscal impact. The commenter indicated the rule will have a highly negative and significant fiscal impact on members who lack cellular or Internet service and will not be able to continue to receive Community First Choice Services or Personal Care Services if EVV is applied to live-care givers.

Response #11: The fiscal impact section of the proposal notice addresses the anticipated fiscal impact to the department. Please see the response to Comment #1 regarding the concern that implementation of EVV will cause a significant fiscal impact to members without cellular or Internet service by leading to a loss of services for members.

Comment #12: A commenter indicated the proposed rule is incompatible with the department's stated mission to serve Montanans in their communities to improve health, safety, well-being, and empower independence because implementation of EVV will lead to a loss of live-in caregiver services for members who do not have cellular or Internet access.

Response #12: Please see the response to Comment #1.

Comment #13: A commenter indicated that mandating the use of EVV is inconsistent with the requirement for Community First Choice Services and Personal Care Services to utilize a person-centered planning process.

Response #13: The department disagrees. The person-centered planning process focuses on identification of the types of services the member desires to receive and service provider choice. *See* ARM 37.40.1001(19) and 37.40.1110(17). EVV is a system that captures certain data elements relating to services that are provided. It does not mandate that a member receive particular services or require that services be provided through a particular provider.

Contact

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Rule Reviewer

Robert Lishman

Approval

Charles T. Brereton, Director

Department of Public Health and Human Services

MONTANA
ADMINISTRATIVE
REGISTER

FISH, WILDLIFE AND PARKS

NOTICE OF ADOPTION OF EMERGENCY RULE

MAR NOTICE NO. 2025-262.1

Summary

Adoption of an emergency rule partially closing Makoshika State Park in Dawson County

Reason

The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of an emergency rule:

(1) The partial park closure of Makoshika State Park is due to fire activity. A wind-blown wildfire sparked, and the fire is moving fast, growing quickly, and acting unpredictably due to wind.

(2) The partial park closure is necessary to protect public safety and to facilitate fire operations.

(3) The partial closure will remain in place until the department determines the fire is suppressed and the site is safe for the public to visit there.

(4) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, due to the combination of unsafe conditions and this threat cannot be averted or remedied by any other administrative act, the department adopts the following emergency rule. This emergency rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be posted at access points. The rule will be sent to interested parties and published as an emergency rule in Issue No. 14 of the 2025 Montana Administrative Register.

Effective Date

Thursday, July 3, 2025

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Friday, August 8, 2025 at 5:00 p.m.

Contact

Audrey Kelly
406-594-8073
Audrey.kelly@mt.gov

ADOPT

The agency is adopting:

RULE 1 EMERGENCY PARTIAL CLOSURE OF MAKOSHIKA STATE PARK

(1) Makoshika State Park is located in Dawson County.

(2) Makoshika State Park is partially closed to public recreation. Only the visitor's center remains open.

(3) This rule will remain in effect until the department determines that the affected area is again safe for public occupancy and recreational use. Signs closing Makoshika State Park will be removed when the rule is no longer effective.

Authorizing statute(s): 2-4-303, 87-1-202, MCA

Implementing statute(s): 2-4-303, 87-1-202, MCA

Interested Persons

The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department, commission or board. Persons who wish to have their name added to the list shall make a written request that includes the name and mailing or email address of the person to receive the notice. Written requests may be mailed or delivered to the Department of Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth

Avenue, Helena, MT 59620-0701, or may be completed online at https://public.govdelivery.com/accounts/MTFWP/subscriber/new.

Bill Sponsor Notification

The bill sponsor contact requirements do not apply.

Committee Notification

The special notice requirements of 2-4-303, MCA, have been met. All committee members and staff of the Environmental Quality Council, with addresses provided on the Montana Legislature's website (www.legmt.gov), were contacted by e-mail on Tuesday, July 8, 2025.

Rule Reviewer

Alex Scolavino

Approval

Marina Yoshioka
Director of Operations
Department of Fish, Wildlife and Parks

MONTANA
ADMINISTRATIVE
REGISTER

OFFICE OF THE GOVERNOR

VACANCIES AND APPOINTMENTS

JULY 2025

UPCOMING VACANCIES – AUGUST 2025

- 9-1-1 Advisory Council
- Alternative Health Care Board
- Montana Poet Laureate
- Board of Veteran Affairs
- Board of Veterinary Medicine

https://governor.mt.gov/boards_appointments/

RECENT APPOINTMENTS – JUNE 2025

- Montana Heritage Preservation and Development Commission
    - Brooke Erb
        - 6/2/25 - 5/1/26
        - Predecessor: Sabre Moore
        - Qualification: Member of Tourism Advisory Council
- Board of Housing
    - Ryan Aikin
        - 6/2/25 - 1/2/29
        - Predecessor: John Grant
        - Qualification: Experience in housing, economics, or finance
- Board of Veteran Affairs
    - Myles Thompson
        - 6/9/25 - 8/1/25

        - Predecessor: Daniel Griffin
        - Qualification: Congressional Office Representative
    - Todd Dunlap
        - 6/19/25 - 8/1/25
        - Predecessor: Reappointed
        - Qualification: U.S. Senate Office Representative
- Montana Alfalfa Seed Committee
    - Justin Wiese
        - 6/9/25 - 7/1/26
        - Predecessor: Reappointed
        - Qualification: Grows alfalfa seed within the state
    - Earnest Johnson
        - 6/9/25 - 7/1/26
        - Predecessor: Reappointed
        - Qualification: Alfalfa Seed Grower
    - Cavin Steiger
        - 6/9/25 - 7/1/26
        - Predecessor: Reappointed
        - Qualification: Alfalfa Seed Grower
    - Mason Whitmer
        - 6/9/25 - 7/1/26
        - Predecessor: Dallas Steiger
        - Qualification: Alfalfa Seed Grower
- State Library Commission
    - Tamara Hall
        - 6/13/25 - 6/1/28
        - Predecessor: Reappointed
        - Qualification: Public Representative
    - Brian Rossmann
        - 6/20/25 - 6/1/28
        - Predecessor: Reappointed
        - Qualification: Commissioner of Higher Education Appointment
- Board of Optometry
    - Kristin O'Brien
        - 6/17/25 - 7/1/28
        - Predecessor: Kristi Schied
        - Qualification: Registered Optometrist
    - Haley Menge
        - 6/17/25 - 7/1/27
        - Predecessor: Ron Benner
        - Qualification: Registered Optometrist
- Unemployment Insurance Appeals Board
    - Laura Fix
        - 6/10/25 - 1/2/29

        - Predecessor: Reappointed
        - Qualification: Private Sector Business Member – Chair
    - Ruthanne Hansen
        - 6/10/25 - 1/2/29
        - Predecessor: Reappointed
        - Qualification: Public member not an employee of state government
    - Derek Oestreicher
        - 6/10/25 - 1/2/29
        - Predecessor: Reappointed
        - Qualification: Attorney
    - Vicki Caissey
        - 6/10/25 - 1/2/27
        - Predecessor: Jenny Iverson
        - Qualification: Public member not an employee of state government
- Invasive Species Council
    - Andy Welch
        - 6/17/25 - 5/1/29
        - Predecessor: Reappointed
        - Qualification: Hydropower Utility Industry Representative
    - Dennis Longknife
        - 6/17/25 - 5/1/29
        - Predecessor: Reappointed
        - Qualification: Fort Belknap Indian Community Representative
    - Martin Charlo
        - 6/17/25 - 5/1/29
        - Predecessor: Reappointed
        - Qualification: Confederated Salish and Kootenai Tribes Representative
    - Paul Rossignol
        - 6/17/25 - 5/1/29
        - Predecessor: Reappointed
        - Qualification: Wildlife Organization Representative
    - Pamela Schwend
        - 6/17/25 - 5/1/29
        - Predecessor: Bob Gilbert
        - Qualification: Landowner
    - Tom Woolf
        - 6/17/25 - 5/1/29
        - Predecessor: Reappointed
        - Qualification: Fish, Wildlife and Parks Director or Designee
    - Karen Laitala
        - 6/17/25 - 5/1/27
        - Predecessor: Pamela Schwend
        - Qualification: County Weed Districts Representative
    - Dylan Brown

- 6/17/25 - 5/1/27
- Predecessor: Steven Tyrrel
- Qualification: Agriculture Representative